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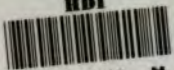
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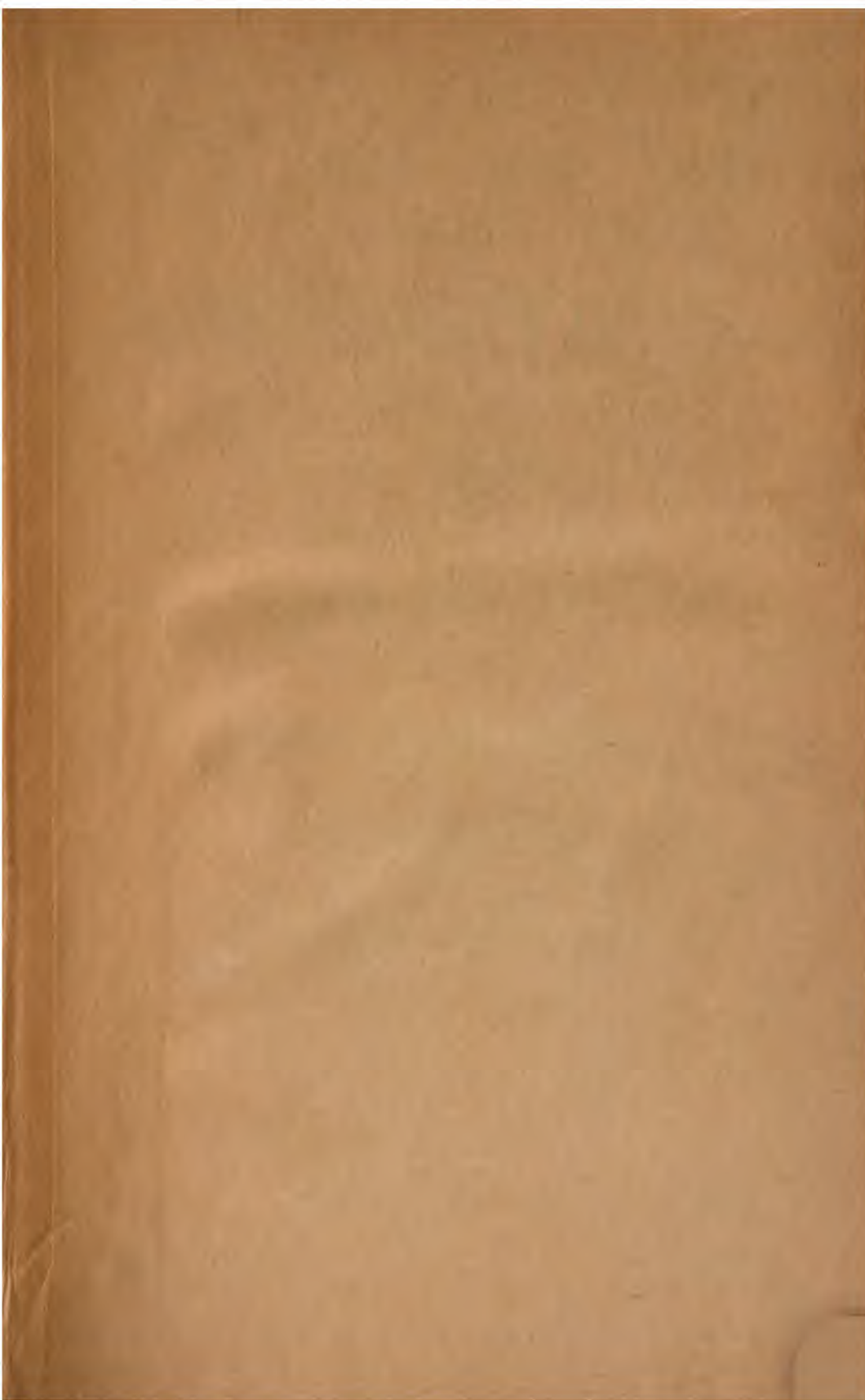
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THE ACT

CONCERNING

CORPORATIONS

IN THE STATE OF

NEW JERSEY,

APPROVED APRIL 7, 1878,

WITH ALL THE AMENDMENTS TO JANUARY 1, 1892,

TOGETHER WITH

NOTES AND FORMS.

Seventh Edition, Revised and Enlarged.

By WILLIAM H. CORBIN,

Counselor-at-Law.

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JERSEY CITY, N. J.:
FREDERICK D. LINN & CO.
1892.

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PREFACE TO THE SEVENTH EDITION.

This edition is a complete reprint of the statute, constitutional provisions, notes and forms, the numerous amendments passed at the legislative session of 1891 being inserted in their proper connection.

Some new forms have been added, and the notes and index have been revised and amplified.

WILLIAM H. CORBIN.

January, 1892.

PREFACE TO THE FIRST EDITION.

This pamphlet contains the general act concerning corporations, as revised in 1875, and published in the "Revision of New Jersey," under the title "Corporations."

A number of supplements and amendatory acts have been passed since the Revision was adopted, and these are also inserted.

Where sections have been amended, the section is here printed as amended, and a note of the date of the amendment made; the other supplements and acts amendatory have been added at the end of the original act. For convenience of reference all the sections in the book have been numbered consecutively. The first one hundred and six numbers are identical with those of the Revision; the others are added by the editor.

The notes comprise such decisions of the New Jersey Courts as are believed to be of practical use in founding a corporation, and of interest to those managing corporate affairs.

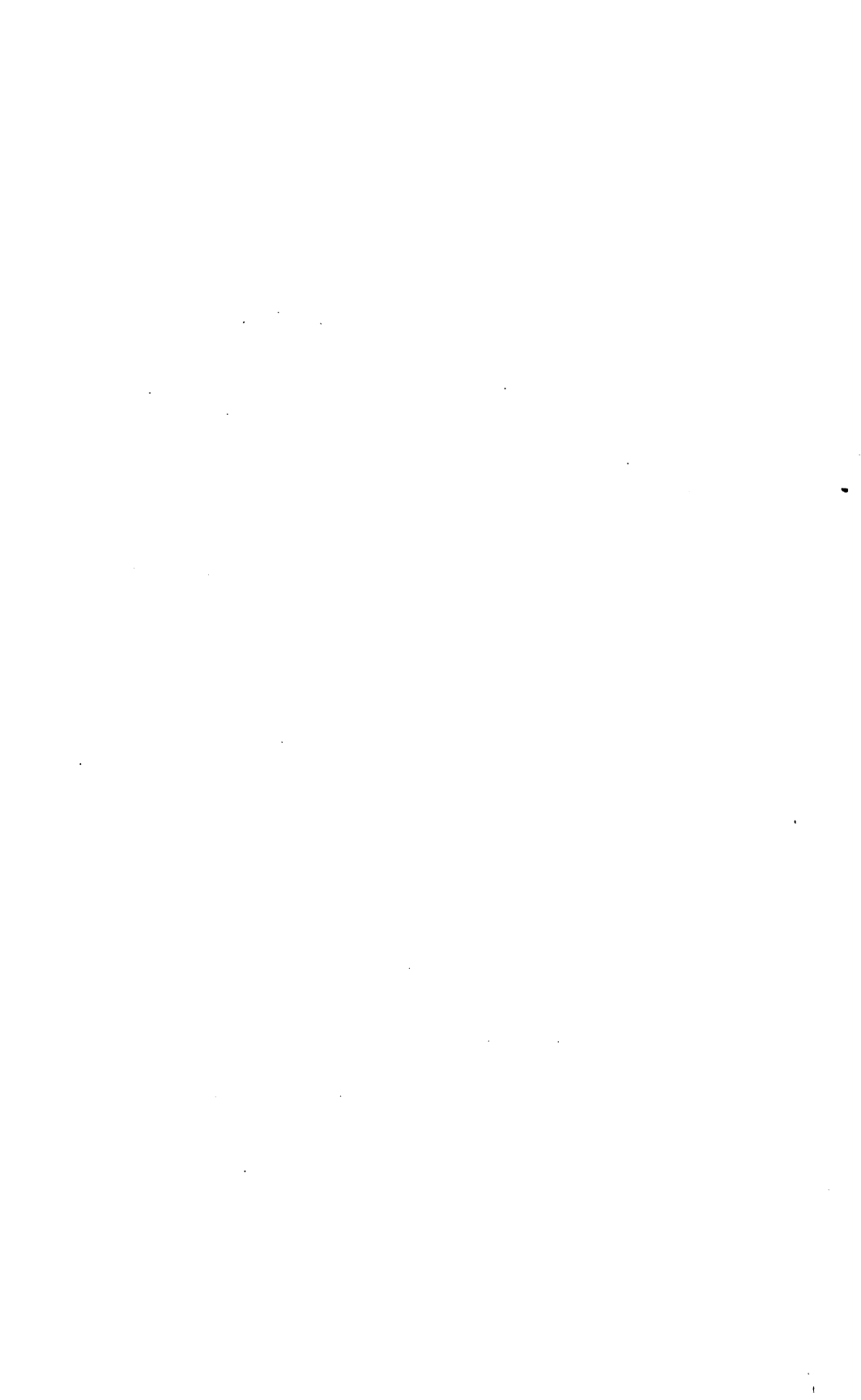
The forms which have been appended include the certificates, waivers and notices necessary to the formation of companies, and the reports and statements required to be filed from time to time after they have been established.

A programme for the first meeting of a company, and a list of the matters to be provided for in the by-laws, are also added.

This publication is intended chiefly for the information of the officers and shareholders of corporations, and the use of persons organizing companies, but it is hoped that the convenience of having the several acts thus grouped together, and of having at hand precedents for the proceedings required by the acts, will recommend the book to the favor of the profession also.

WILLIAM H. CORBIN.

JERSEY CITY, January, 1881.



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LIST OF GENERAL ACTS FOR THE FORMATION OF CORPORATIONS.

The following is a list of the general statutes of New Jersey providing for the formation of corporations, with references to the places where they may be found. The forms in this book are applicable only to one of these acts, the general act concerning corporations, which is printed in the following pages. Forms of articles of association under many of the other acts will be found in CORBIN'S FORMS, under the appropriate heads.

- Athletic Clubs—Revision, p. 1267; P. L. 1890, p. 444.
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 Banks—Revision, p. 57.
 Baptist Churches, Associations of—P. L. 1890, p. 271.
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 Boards of Trade—P. L. 1887, p. 291; P. L. 1890, p. 216.
 Boat Clubs, &c.—Revision, p. 1267.
 Borough Commissions—P. L. 1882, p. 48.
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 Borough Governments at Sea-side Resorts—P. L. 1878, p. 232; P. L. 1881, pp. 36, 94, 99.
 Building and Loan Associations—Revision, pp. 92, 1272.
 Building Associations by Knights of Labor, &c.—P. L. 1839, ch. 187.
 Business Men's Societies—P. L. 1890, p. 211.
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 Children's Aid Societies—P. L. 1890, p. 46.
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 Cruelty to Children—Revision, p. 1844; P. L. 1890, p. 46.
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 Hospital Associations—Revision, p. 1343; P. L. 1883, pp. 47, 58.
 Industrial Education—P. L. 1890, p. 21.
 Insurance Companies—Revision, pp. 506, 1347.
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 Land Improvement—Revision, pp. 567, 1350.
 Learning, Societies for Promotion of—Revision, p. 577.
 Libraries—P. L. 1882, p. 34; Revision, p. 577.
 Limited Partnership Associations—P. L. 1890, p. 304; P. L. 1883, p. 188.
 Live Stock Insurance—P. L. 1890, p. 309.
 Lyceums and Libraries—Revision, p. 628.
 Merchants' Assemblies—P. L. 1890, p. 211.
 Monument Associations—P. L. 1878, p. 143; P. L. 1879, p. 15.
 Musical Conservatories—Revision, p. 1375.
 Navigation Companies—Revision, p. 735.
 Orphan Asylums—Revision, p. 793.
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 Safe Deposit and Trust Companies—P. L. 1885, p. 270.
 Savings Banks—Revision, p. 1058.
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 Schuetzen Associations—Revision, p. 1092; P. L. 1879, p. 259.
 Sea-side Resorts, Government of—P. L. 1878, p. 232; P. L. 1881, pp. 36, 94, 99.
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 Street Railway Companies—P. L. 1886, p. 185.
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 Trades Assemblies—P. L. 1886, p. 236.
 Turnpike Companies—P. L. 1880, p. 181.
 Veterinary Surgery Societies—P. L. 1885, p. 105.
 Water Companies—P. L. 1876, p. 103; P. L. 1878, p. 90; P. L. 1880, p. 273.
 Yachting Clubs—Revision, p. 1267.

CONSTITUTION OF NEW JERSEY.

PROVISIONS RESPECTING CORPORATIONS.

ARTICLE I.

SECTION 19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation.

SEC. 20. No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever.

ARTICLE IV.

SEC. VII., Paragraph 11. The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say: * * * Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever. Granting to any corporation, association or individual the right to lay down railroad tracks. * * * The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.

ARTICLE X.

SEC. 1. The common law * * * shall remain in force * * * until * * * altered or repealed, * * * and all * * * claims and rights of individuals and bodies corporate and of the state, and all charters of incorporation shall continue.





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OF NEW JERSEY

Is by its charter specifically authorized to act as the resident agent of corporations organized under the laws of New Jersey.

In behalf of corporations which it represents, *insures a strict compliance with the laws of the State* and carefully guards their interests; gives immediate notice of the introduction of bills and of decisions of Courts of New Jersey affecting the interest of corporations; attends to corporate taxes.

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Rooms for Directors' and Stockholders' Meetings.

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COUNSEL.

HENRY S. WHITE.....	Jersey City, N. J.
DILL, CHANDLER & SEYMOUR.....	31 Nassau Street, New York City

AN ACT CONCERNING CORPORATIONS.

Revision—Approved April 7th, 1878.

I. Powers.

1. Every corporation, as such, shall be deemed to have power :

I. *To have succession*, by its corporate name, (a) for the period limited in its charter or certificate of incorporation, and when no period is limited, perpetually, except so far as the constitution otherwise provides concerning banks or money corporations; (b)

II. *To sue and be sued*, complain and defend in any court of law or equity; (c)

III. *To make and use a common seal*, and alter the same at pleasure; (d)

(a) A misnomer in a grant to a corporation does not defeat the grant if the identity of the corporation be shown. 5 *Hal.* 323; 1 *Zab.* 174. So with a bequest. 3 *Hal. Ch.* 211; 2 *Id.* 107; 2 *Stew. Eq.* 32; 8 *Id.* 392. So, also, with a contract. 2 *Beas.* 427. A corporation may acquire a name by usage. *Alexander v. Berney*, 1 *Stew. Eq.* 90. Name may be changed. Sections 114, 115.

(b) Article IV., section 7, paragraph 8, of the constitution, which limited bank charters to twenty years, was stricken out by amendment to the constitution in 1875.

(c) A corporation may be sued on an implied contract. 3 *Hal.* 182; *Pen.* 352; 8 *C. E. Gr.* 96. And for malicious prosecution. 3 *Vr.* 334. And for assault and battery. 3 *Id.* 328. And for tort of agents. 3 *Zab.* 360. It may maintain a suit for libel. *Id.* 402. An action for libel will lie against a corporation. *Evening Journal Association v. McDermott*, 14 *Vr.* 488; 15 *Id.* 430. To bind a corporation under a lease for years, execution under its corporate seal is not requisite. A corporation may hold as a tenant from year to year. *Crawford v. Longstreet*, 14 *Id.* 325. A manufacturing corporation has implied power to make negotiable paper, but no power to become a party to accommodation paper; but such paper cannot be impeached in hands of *bona fide* holder for value who acquired it before maturity. *Bank v. Young, Receiver*, 5 *Cent. Rep.* 113. As to contract by estoppel, see *Met. Telephone Co. v. Domestic Telephone Co.*, 17 *Stew. Eq.* 568.

(d) The appearance of a corporate seal to an instrument is presumptive evidence that it was affixed by proper authority. The presumption may be rebutted, but the burden is on the party objecting. *Sax.* 541; 8 *C. E. Gr.* 162. An impression of the seal on the instrument, without wax, is a seal. 1 *Hal. Ch.* 52. The affixing of the seal gives rise to the presumption of due execution of the deed, which is not overcome by the testimony of a single corporate officer that he had no knowledge of corporate authority having been given to execute the instrument. *Parker v. Washoe Mfg. Co.*, 20 *Vr.* 465.

IV. *To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter, and all other real estate which shall have been bona fide mortgaged to the said company by way of security, or conveyed to them in satisfaction of debts previously contracted in the course of dealings, or purchased at sales upon judgment or decree which shall be obtained for such debts; and to mortgage (e) any such real or personal estate with their franchises; the power to hold real and personal estate shall include the power to take the same by devise or bequest; provided, however, that nothing herein contained shall prohibit manufacturing or trading corporations from accommodating their customers by making payments or disbursements out of any sum of money received from such customers; (f)*

V. *To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation; (g)*

VI. *To make by-laws not inconsistent with the constitution or laws of the United States or of this state, fixing and altering the number of its directors (vide sections 17, 116, 173, 184) for the management of its property, the regulation and government of its affairs, and for the transfer of its stock, with penalties for the breach thereof not exceeding twenty dollars; (h)*

VII. *To wind up and dissolve itself, or be wound up and dissolved in manner hereafter mentioned. (i)*

(e) Power to convey includes power to mortgage. *Sax.* 541. Foreign corporations may hold and mortgage property here. *Infra*, §§ 99, 137, 150.

(f) Where a corporation has power to hold real estate, it may acquire a title in fee-simple. 3 *Dutch.* 13; 2 *McCart.* 481; 6 *Vr.* 178; 7 *Id.* 471. Third persons cannot object to the capacity of a corporation to take a gift, on the ground that its property already exceeds the amount limited by the law under which it was formed. 2 *Stew. Eq.* 36; 12 *Id.* 409. Grants to a private corporation are strictly construed. 8 *C. E. Gr.* 441; 9 *Id.* 217; 10 *Id.* 565; 17 *Vr.* 289.

(g) *Vide* §§ 16, 19. A failure to elect officers at the proper time does not dissolve the corporation. 2 *Beas.* 427. An agent need not be appointed under the corporate seal. *Pen.* 352. The acts of an officer *de facto* are binding, so far as they affect third persons (2 *Gr. Ch.* 322), and such third persons are bound. 9 *Vr.* 74. An agreement by directors to pay themselves compensation for their services, in the employ of the company, is void. 3 *Stew. Eq.* 702.

(h) By-laws must be reasonable as well as legal. 1 *Gr.* 196; 9 *C. E. Gr.* 538; 8 *Vr.* 348; 2 *Stew. Eq.* 77.

(i) A corporation's charter is not extinguished by a transfer of all its property and stock. 2 *Beas.* 323. For proceedings in case of voluntary dissolution, see section 34, *infra*. See, also, sections 6, 13, 46, 50, 57, 58, 60, 61, 62, 64, 65, 80, 92, 113, 186, 203.

2. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter, or in the act or certificate under which it shall be incorporated. (*Vide* sections 8, 9, 14.)

3. In addition to the powers enumerated in the first section of this act, and to those expressly given in its charter, or in the act or certificate under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given. (*j*)

4. Banking powers never implied.

No corporation created or to be created shall, by any implication or construction, be deemed to possess the power of discounting bills, notes, or other evidences of debt, of receiving deposits, of buying gold or silver bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes or other evidences of debt, upon loan or for circulation as money, unless such corporation is or shall be expressly incorporated for banking purposes, or unless such powers are or shall be expressly given in its charter. (*k*)

5. Holders of stock not fully paid up, liable to creditors for balance unpaid.

Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the

(*j*) Public grants are strictly construed, and whatever is not plainly granted must be understood to be withheld. *Jersey City Gaslight Co. v. Consumers' Gas Co.*, 13 *Stew. Eq.* 427. The presumption is, that all contracts made by a corporation are within its powers. 3 *C. E. Gr.* 542. A corporation created by statute can exercise no power, and has no rights except such as are expressly given or necessarily implied. *National Trust Co. v. Miller*, 6 *Stew. Eq.* 155. A contract not within the scope of the powers conferred on a corporation, cannot be made valid by the assent of every one of the stockholders. *Ibid.* The acts of a *de facto* corporation are valid so far, at least, as they create rights in favor of third persons. 5 *Id.* 236; 9 *Id.* 548. The directors have power to make any contract which may be necessary, fit or proper to enable the corporation to accomplish the purposes of its creation. The question of the expediency of any contract which is within the power of the corporation is committed to the managers. 13 *Id.* 114. The legality of a corporation which exists under form of law can only be impugned by proceedings instituted by the attorney-general. *West Jersey R. R. Co. v. Cape May, &c., R. R. Co.*, 7 *Id.* 164; *National Docks Railway Co. v. Central R. R. Co.*, 5 *Id.* 755; *vide Hackensack Water Co. v. De Kay*, 9 *Id.* 548, 559; 5 *Cent. L. Rep.* 333; *Jersey City Gaslight Co. v. Consumers' Gas Co.*, 13 *Stew. Eq.* 427. Nobody can take advantage of a breach of the condition on which the company is created, for the purpose of depriving it of its franchises, except the sovereign power which created the corporation. *Elizabethtown Gaslight Co. v. Green*, 1 *Dick. Ch. Rep.* 118.

(*k*) See "An act to authorize and regulate the business of banking." *Rev.* 58.

claims of its creditors, each stockholder shall be bound to pay on each share held by him the sum necessary to complete the amount of such share, as fixed by the charter of the company, or such proportion of that sum as shall be required to satisfy the debts of the company.^(l)

6. Charters may be repealed, altered or suspended.

The charter of every corporation which shall hereafter be granted by or created under any of the acts of the legislature, shall be subject to alteration, suspension and repeal,^(m) in the discretion of the legislature. (*Vide* proviso to section 13 to like effect, also section 35.)

7. Directors to make dividends only from surplus or profits; otherwise personally liable for debts.⁽ⁿ⁾

It shall not be lawful for the directors of any bank, or moneyed or manufacturing corporation in this state, or corporation organized under this act, to make dividends, except from the surplus or net profits arising from the business of the corporation, nor to divide, withdraw, or in any way pay to the stockholders or any of them, any part of the capital stock of the said corporation, or to reduce the said capital stock, except according to this act, without the consent of the legislature;^(o) and in case of any violation of

(l) A creditor, having exhausted his remedy by judgment and execution, and a return *nulla bona*, may file a bill against the stockholders to compel the payment of unpaid subscriptions to the capital stock. Such suit can only be prosecuted by a creditor suing in behalf of all the creditors of the corporation. The corporation is a necessary party to the suit; all the property and assets of the corporation must be brought into the suit, and put in the course of administration. *Wetherbee v. Baker*, 8 *Stew. Eq.* 501; *Bickley v. Schlag*, 1 *Dick. Ch. Rep.* 533. See, also, section 96.

(m) This is a reservation to the state for the benefit of the public, to be exercised by the state only. It is not so incorporated in the charter of a corporation specially chartered after its passage, as to injuriously affect the vested rights of stockholders. *Mills v. Central R. R. Co.*, 14 *Stew. Eq.* 1; *Zabriskie v. Hackensack R. R. Co.*, 3 *C. E. Gr.* 178. It reserves to the legislature authority for proper ends to make any change of a charter which will not defeat or substantially impair the object of the grant. The change may be made by supplement to this act. *Montclair v. Greenwood Lake R. R. Co.*, 18 *Stew. Eq.* 436.

(n) For other provisions as to dividends, see sections 25, 52, 53, 106, 144.

(o) *Vide* sections 33, 117, 120, 138, 169. If such unlawful division be made, the money may be recovered back from the stockholders for the benefit of creditors. *Williams v. Boice*, 11 *Stew. Eq.* 364, and notes. The power of the directors (except when restrained by statute or by contract) over the gains of the business is absolute so long as they act in the exercise of an honest judgment. They may reserve what they deem necessary or judicious for repairs, improvements and contingencies before making a dividend. The words "net profits" mean what shall remain as the clear gains of any business venture, after deducting the capital invested in the business, the expenses incurred in its conduct and the losses sustained in its prosecution. *Park v. Grant Locomotive Works*, 13 *Id.* 114.

the provisions of this section, the directors under whose administration the same may happen, shall, in their individual and private capacities, jointly and severally, be liable at any time within the period of six years after paying any such dividend to the said corporation, and to the creditors thereof, in the event of its dissolution or insolvency, to the full amount of the dividend made or capital stock so divided, withdrawn, paid out, or reduced, with legal interest on the same from the time such liability accrued; *provided*, that any of the said directors who may have been absent when the same was done, or who may have dissented from the act or resolution by which the same was done, may respectively exonerate themselves from such liability, by causing their dissent to be entered at large on the minutes of the said directors, at the time the same is done, or forthwith after they shall have notice of the same, and by causing a true copy of the dissent so entered on the minutes to be published, within two weeks after the same shall have been entered on said minutes, in some public newspaper published in the county where the said corporation has its office or place of business; and if none be published in such county, then in a newspaper printed in an adjoining county, and circulating in the neighborhood of such office or place of business of said corporation; and *provided also*, that this section shall not be construed to prevent a division and distribution of the capital stock of the corporation, which shall remain after the payment of all its debts, upon the dissolution of the corporation or the expiration of its charter.

8. Corporation sole has all powers granted in this act.

If any act shall hereafter be passed by the legislature of this state which shall by its terms enact that any person therein named or described shall be incorporated by any name and for any purpose therein stated, such corporation shall immediately be vested with and possessed of all powers in this act specified and set forth, subject to all provisions and restrictions therein contained, unless such special act incorporating the same shall otherwise in whole or in part direct to the contrary. (*Vide* sections 2, 9, 14.)

9. Company organized under any general law has all the powers granted in this act.

Any corporation organized under any general law of the legislature now or hereafter to be passed, shall, in addition to the powers and restrictions thereon to which it may become subject or of which it shall be possessed by virtue of its organization

and the act authorizing the same, be additionally, possessed of all powers and be subject to all restrictions thereon in this act contained, as far as the same are consistent with the act under which it may, as aforesaid, be organized. (*Vide* sections 2, 8, 14.)

II. Formation, Constitution, Alteration, Dissolution.

10. Purposes for which corporations may be formed.

[This section is given as amended by the act of April 12th, 1876, the act of March 3d, 1880, and the act of February 29th, 1888. P. L. 1888, p. 112.]

It shall be lawful for three (*vide* section 124) or more persons (*p*) to associate themselves into a company to carry on any kind of manufacturing, mining, chemical, trading or agricultural business, agricultural fairs and exhibitions for the encouragement of competition in agriculture, horticulture, breed of stock and development of speed in horses; the transportation of goods, merchandise or passengers, upon land or water; inland navigation; the building of houses, vessels, wharves or docks, or other mechanical business; the reclamation and improvement of submerged lands; the improvement and sale of lands; the examination, insurance and guaranty of the title to lands; the constructing, maintaining and operating (except in a town or city in which water-works are established and owned by the corporate authorities) works for the special purpose of supplying water for extinguishing fires in mills, factories, manufacturing establishments and other buildings; the damming of rivers and streams, including the storage, transportation and sale of water, and water-power and privileges, with the right to take rivulets, raceways and lands, and erect and maintain dams, reservoirs, raceways, mills, manufactories and other erections, and lease, mortgage, sell and convey the same, or any part thereof; the making, purchasing and selling manufactured articles, and also of acquiring and disposing of rights to make and use the same; the renting buildings and steam or other power therewith; the cutting and digging peat, stone, marl, clay, or other like substance, and dealing in the same, manufactured or unmanufactured, or any wholesale or retail mercantile business, or any lawful business or purpose whatever, upon making and filing

(*p*) A general law authorizing any number of persons, not less than seven, to form a corporation to construct a railroad, does not exclude non-residents as corporators. *Central R. R. Co. v. Penn. R. R. Co.*, 4 *Stew. Eq.* 475.

a certificate in writing of their organization, in manner hereinafter mentioned; (q) *provided*, that nothing herein contained shall be construed to authorize the formation of any insurance company (except companies for the insurance or guaranty of the title to lands or any estates or interests in lands), banking company, savings bank or other corporation intended to derive profit from the loan and use of money, nor of any railroad company, turnpike company or any other company which shall need to possess the right of taking and condemning lands, except for the damming of rivers and streams, and for the purposes appertaining thereto, as hereinbefore specified (*vide* sections 202, 204); and *further provided*, that this act shall not apply to any river or stream of a less width and volume of water than the Delaware river, ordinarily, at Phillipsburg, in this state, below its junction with the Lehigh, nor to any river or stream below the head of tide-water in the same.

11. The certificate, its contents, authentication, filing and record. (r)

[The proviso to this section was added by supplement of March 18th, 1884. P. L., p. 82.]

Such certificate, in writing, shall set forth,

I. The name assumed to designate such company, and to be used in its business and dealings;

II. The place or places in this state or elsewhere where the business of such company is to be conducted, and the objects for which the company shall be formed (*vide* section 15);

III. The total amount of the capital stock of such company, which shall not be less than two thousand dollars (*vide* section 124), the amount with which they will commence business, which shall not be less than one thousand dollars, and the number of shares

(q) As in favor of creditors and third persons dealing with a corporation in good faith, the regularity and validity of its organization, effected under color of its charter, cannot be impeached. *Hackensack Water Co. v. De Kay*, 9 *Stew. Eq.* 548.

(r) When the certificate is defective, an amended certificate may be filed. Sections 126, 127, 180. When lost, copy may be filed. Section 175. The corporate name may be changed. Sections 114, 115. Principal office may be changed. Section 125. The capital stock may be increased. Sections 116, 119, 193, 194; or decreased. Section 184. In certain cases number of directors may be increased. Section 116. The capital stock may be decreased and the par value changed. Sections 117, 118. The corporate existence may be extended. Sections 109, 110, 111, 177, 178, 187, 197, 198. The certificate may contain a provision for the guaranty of dividends on stock issued for property purchased. Section 144. Merger of corporations. Section 190. Classification of directors. Section 17. Choice of directors by one class of stockholders. Section 17.

into which the same is divided, and the par value of each share; *provided*, that when any corporation is to be formed for the purpose of originating and keeping a herd-register for the entry therein of any kind of thoroughbred horses, cattle, swine, sheep or other domestic animals, the total amount of the said capital stock of such herd-register company, may be any sum not less than two hundred dollars, and the amount with which they shall commence business shall not be less than one hundred dollars;

IV. The names and residences of the stockholders, and the number of shares held by each; (s)

V. The periods at which such company shall commence and terminate, not exceeding fifty years; which certificate shall be proved or acknowledged, and recorded as required of deeds of real estate, in a book to be kept for that purpose in the office of the clerk of the county where the principal office or place of business of such company in this state shall be established, and, after being so recorded, shall be filed in the office of the secretary of state; the certificate may contain any limitation upon the powers of the corporation, the directors, and the stockholders that the parties signing the same desire (*vide* sections 143, 144, 207); *provided*, such limitation does not attempt to exempt the corporation, the directors, or the stockholders, from the performance of any duty imposed by law. (t)

12. The certificate is evidence.

The said certificate, or a copy thereof, duly certified by said clerk or secretary, shall be evidence in all courts and places.

13. Corporate existence begins when certificate is filed; continuance; dissolution.

Upon making said certificate, and causing the same to be recorded and filed as aforesaid, the said persons so associating, their successors and assigns, shall be, from the time of commencement fixed in said certificate (u), and until the time limited therein

(s) Subscriptions must be real, actual and honest. An attempt to acquire corporate functions by a pretentious or evasive compliance with the law will be declared abortive on the ground of fraud. 2 *Stew. Eq.* 242. But see *Nat. Docks R. R. Co. v. Central R. R. Co.*, 5 *Id.* 755.

(t) Duties required of an incorporated company are in the nature of conditions annexed to the grant of the franchise. *State v. Godwinsville, &c., Co.*, 15 *Vr.* 496.

(u) The recording and filing of the certificate of organization are not conditions precedent to the legal existence of the corporation. They are merely necessary evidence of such existence. That evidence being produced, the legal existence, "from the time of the commencement fixed in said certificate," is proved. *Vanneman v. Young*, 23 *Vr.* 403. Where the law authorizes a

for the termination thereof, incorporated into a company, by the name mentioned in said certificate; *provided*, that the legislature may at pleasure dissolve any company created by virtue of this act. (*Vide* sections 6 and 35 to similar effect.)

14. All companies hereafter established shall be governed by this act.

All companies that may be hereafter established within this state, under the provisions hereinabove contained, or under any law of this state, and also the officers of every such company, and the stockholders therein, may exercise the powers, and shall be governed by the provisions, and be subject to the liabilities hereinafore and hereinafter provided. (*Vide* sections 2, 8, 9.)

15. Company may carry on business out of this state.

[This section is given as amended by the supplement of May 9th, 1889. P. L., p. 412.]

Any company organized as aforesaid may carry on a part of its business out of this state, and have one or more offices and places of business out of this state, and may hold, purchase and convey real and personal property out of this state the same as if such real and personal property were situated in the State of New Jersey; *provided*, that the certificate of the organization of such company shall state what portion of its business is to be carried on out of this state, and in what town or city, county and state its principal office or place of business out of this state is to be situated, and also in what other state or states, territory or territories of the United States, and in what other countries it proposes to carry on operations, and shall also state the name of the town or city and county in which the principal part of the business of said company within this state is to be transacted, (v) and such town or city and county within this state shall be deemed to be the town, place and county in which the operations and business of the company are to be carried on and its principal place of business within this state, within the provisions of this act.

16. Business to be managed by directors, who shall be shareholders. Secretary and treasurer. Other officers and agents.

The business of every such company, shall be managed and

corporation, and an effort is made in good faith to organize a corporation under the law, and thereupon, as a result of such effort, corporate functions are assumed and exercised, the organization becomes a corporation *de facto*, and private persons who deal with it as a corporation cannot be permitted to say, with regard to those dealings, that it was not a corporation *de jure*, because some legal formality, not important for their substantial rights, had not been complied with. *Ibid.* *Vide* sections 179, 206, 208.

(v) Principal office may be changed. Section 125.

conducted by the directors thereof, (w) who shall respectively be shareholders therein, and such other officers, agents, and factors as the company shall think proper to authorize for that purpose (*vide* section 19); and every such company shall have a secretary and treasurer. (*Vide* section 18.)

17. Directors, when to be chosen; one to be president. Classification of directors.

[This section is given as amended by the supplement of May 9th, 1889. P. L., p. 412.]

The directors shall not be less than three in number, (x) and, except as hereinafter provided, they shall be chosen annually by the stockholders at such time (y) and place as shall be provided by the by-laws of the company, and shall hold their offices for one year and until others are chosen and qualified in their stead; (z) and one of the directors shall be chosen president, either by the directors or by the stockholders, as shall be directed by the by-laws; but by so providing in its original certificate of incorporation, any company, organized under the act to which this is a supplement, may classify its directors in respect to the time for which they shall severally hold office, the several classes to be elected for different terms; *provided*, that no class shall be elected for a shorter period than one year or for a longer period than five

(w) There can be no doubt about the relations which the directors of a corporation hold to its stockholders. They are trustees. They are bound to use their authority for the maintenance of the rights and the protection of the interests of the stockholders. *Elkins v. Camden and Atlantic R. R. Co.*, 9 *Stew. Eq.* 467; *Stewart v. Lehigh Valley R. R. Co.*, 9 *Vr.* 505. A director cannot make for himself, or for his own benefit, a contract that will bind the company. The contract may be repudiated by the company at the instance of a stockholder. *Guild v. Parker*, 14 *Id.* 435; *Gardner v. Butler*, 3 *Stew. Eq.* 702. One who is a director in both of two companies, who are contracting with each other, is incapacitated from taking part in settling the terms of the contract. *Met. Telephone Co. v. Domestic Telephone Co.*, 17 *Stew. Eq.* 568, 573. In the absence of a rule requiring the concurrence of a definite number, a majority of a quorum, duly convened, may act; but each is entitled to notice. Notice of stated meetings may be given by the adoption of a rule fixing the time; constructive notice will be sufficient, if some rule, legally prescribed, declares it sufficient; but for special meetings, in the absence of a rule for constructive notice, actual notice must be given. *Ibid.* *Cadmus v. Farr*, 18 *Vr.* 208.

(x) *Vide* sections 1 (paragraph 6), 116, 173, 184.

(y) *Vide* section 106.

(z) Where the charter provides that annual meetings shall, for the election of directors, be held by the stockholders, the directors cannot, by a by-law, so change the time of holding the annual election that they will retain themselves in office more than a year. *Elkins v. Camden and Atlantic R. R. Co.*, 9 *Stew. Eq.* 467. Any action by the directors designed to retain themselves in office and thus perpetuate their control over the affairs of the corporation, against the will of the holders of a majority of the stock, is illegal and void. *Ibid.*; 1 *McCart.* 380. Stockholders have a standing in court to test the legality of an election under the provisions of section 44. *St. Lawrence Steamboat Case*, 15 *Vr.* 529.

years, and that the term of office of at least one class shall expire in each year, and such directors shall hold office accordingly; any such company, whose directors shall be so classified and which shall have more than one kind of stock (*vide* section 25), may, by so providing in its original certificate of incorporation, or in its by-laws, confer the right to choose the directors of any class upon the stockholders of any class or classes, to the exclusion of the others.^(a)

18. Secretary and treasurer to be chosen annually: secretary to be sworn; treasurer to give bond.

The secretary and treasurer shall also be chosen annually, either by the directors or the stockholders, as the by-laws may direct, and shall hold their offices until others are chosen and qualified in their stead; the secretary shall be sworn to the faithful discharge of his duty, and shall record all the votes of the company and directors in a book to be kept for that purpose, and perform such other duties as shall be assigned to him; and the treasurer shall give bond in such sum, and with such sureties, as shall be required by the by-laws, for the faithful discharge of his duty. (*Vide* section 16.)

19. All other officers, agents and factors of the company shall be chosen in such manner, and hold their offices for such terms, as shall be directed by the by-laws. (*Vide* section 16.)

20. When any vacancy occurs among the directors or secretary or treasurer by death, resignation, removal or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the by-laws of the said company.

21. Stockholders may vote by proxy. Meetings. Quorum.

[This section is given as amended by supplement of March 9th, 1891. *P. L.*, p. 113.]

At all meetings of the company absent stockholders may vote by proxy, ^(b) authorized in writing; and every company may determine by its by-laws the manner of calling and conducting all

(a) The acts of *de facto* officers are valid, so far as they create rights in favor of third persons; a *de facto* officer is such as has the reputation of being an officer, and yet is not a good officer in point of law. 5 *Stew. Eq.* 236; 9 *Id.* 548. The powers of the president of a corporation are strictly the powers of an agent—powers delegated to him by the directors, who are the managers and the persons in whom the control of the business and property is vested. The president may perform all acts of an ordinary nature, which, by usage or necessity, are incident to his office. He cannot confess judgment against the company. *Stokes v. New Jersey Pottery Co.*, 17 *Vr.* 237.

(b) The power of attorney must be such written evidence of the agent's right to act as will reasonably assure the inspectors that the agent is acting by authority of the principal. It need not be in any prescribed form, nor be executed with any particular formalities. It is sufficient that it appear on its

meetings, what number of shares shall entitle the stockholders to one or more votes, what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting in order to constitute a quorum; (c) *provided*, that in no case shall more than a majority of shares or amount of interest be required to be represented at any meeting in order to constitute a quorum; and if the quorum shall not be so determined by the company, a majority of the stockholders in interest represented, either in person or by proxy, shall constitute a quorum.

22. The first meeting of every such company shall be called by a notice, (d) signed by a majority of the persons named in the before-mentioned certificate, and designating the time, place and purposes of the meeting, and such notice shall, two weeks at least before the time of such meeting, be published in some newspaper of the county where the corporation may be established, or if there be no newspaper in the county, then in a newspaper of an adjoining county, or said first meeting may be called without such notice or publication if two days' notice be personally served on all the parties named in the certificate, or if all the parties named in the certificate waive such notice and fix a time of meeting, then no notice or publication whatever shall be required of such first meeting.

23. Every stockholder shall have a certificate, signed by the treasurer, certifying the number of shares owned by said stockholder in such company. (e)

face to confer the requisite authority and be free from all reasonable grounds of suspicion of its genuineness and authenticity. *In re Election of St. Lawrence Steamboat Co.*, 15 *Vr.* 529. See section 38, *infra*.

(c) For decisions relative to quorum and notices, *vide* section 16, note *w*. The statute secures to each stockholder the right to one vote, at every election of directors, for each share of the capital stock of the company held by him, and makes the books of the corporation plenary and conclusive evidence of the ownership of the stock and of the right to vote. The right to hold elections for directors and to vote at such elections are rights inherent in the ownership of stock, and a stockholder cannot be deprived of these rights upon the allegation that he proposes to use his legal rights for purposes which others may think to be detrimental to the interests of the corporation. *Camden and Atlantic R. R. Co. v. Elkins*, 10 *Stew. Eq.* 273. See section 38, *infra*.

(d) If all the incorporators but one are present at the first meeting, and he afterwards assents to what was done, the incorporation is valid, although no notice was given. *Babbitt v. East Jersey Iron Co.* (June, 1876), *Stew. Dig.*, p. 208, § 13.

(e) The holding of a certificate creates a legal presumption of rightful ownership which can only be overcome by proof that it was illegally issued or legally forfeited. Certificates are the evidence furnished by the company of ownership of stock; they are the stockholder's title to his property. *Downing v. Post*, 3 *Zab.* 66, 79.

24. Company may order issues of stock until limit is reached. Capital may be increased.

Every such company may, at any meeting called for that purpose, increase its capital stock and the number of shares therein, until it shall reach the amount named in the original certificate; and in case more capital is necessary an additional certificate shall be filed, under the hands and seals of two-thirds in interest of the stockholders, or their legal representatives, stating the amount of such additional capital required, which shall be proved or acknowledged and recorded in the manner heretofore provided for in this act; *provided*, that for all stock issued under such supplemental certificates such company, its directors and stockholders, shall be entitled to all the benefits and subject to all the liabilities contained in this act. (*f*)

25. Common and preferred stock.

[This section is given as amended by the supplement of May 9th, 1889. *P. L.*, p. 412.]

Any company shall have power to create and issue certificates of two kinds of stock, namely, general stock and preferred stock; which preferred stock shall at no time exceed two-thirds of the actual capital paid in, and may be made subject to redemption at par at a fixed time, to be expressed in the certificate thereof; and the holders of such preferred stock shall be entitled to receive, and the said company shall be bound to pay thereon, a fixed yearly dividend, to be expressed in the said certificate, not exceeding eight per centum, payable quarterly, half-yearly or yearly, before any dividend shall be set apart or paid on the said general stock; (*g*) and in no event shall the holder of such preferred stock be individually or personally liable for the debts or other liabilities of said company; (*h*) but in case of insolvency

(*f*) When capital fully paid up certificate to be filed. Section 30. So, when increase of capital is paid up. Sections 31, 32. Any company may increase stock. Section 116. Stock may be issued to pay maturing bonds. Section 135. Mining stocks may be assessed. Section 143. Fees on filing certificate of increase. Section 147. Certain water companies may increase stock. Section 193. Any company, except railroad and canal corporations, may increase stock. Section 194. When issue is made of increased stock certificates to be filed. Section 220. Company may change the par value of shares or increase the number of shares by subdividing. Sections 118, 119.

(*g*) Dividends on preferred stock can only be paid out of the profits; and this is so even when the stock is issued under a guaranty that a dividend of a certain sum shall be paid annually. In the final distribution of the capital, the preferred stock is entitled to preference. *McGregor v. Home Ins. Co.*, 6 *Stew. Eq.* 181. For other provisions respecting dividends, see sections 7, 52, 106, 144.

(*h*) Personal liability of stockholders for the debts of the corporation is inconsistent with the idea of a body corporate at common law, and can only

such debts or other liabilities shall be paid in preference to such preferred stock; *provided always*, that except where it shall be otherwise provided in its original certificate of incorporation (*vide* section 17), no such company shall create or issue certificates for such preferred stock, except by authority given to the board of directors thereof by a vote of at least two-thirds of the stock voted at a meeting of the general stockholders, duly called for that purpose.

26. Shares transferable. When hypothecated, transfer must express that fact.

The shares of stock in every corporation of this state shall be deemed personal property, and shall be transferable on the books of such company in such manner as the by-laws may provide; (i) and whenever any transfer of shares shall be made for collateral security, and not absolutely, the same shall be so expressed in the entry of said transfer. (j)

27. Shares assessable until fully paid up. (k)

The directors of every such company may, from time to time, assess upon each share of general stock such sums of money as two-thirds of the stockholders in interest shall direct, not exceeding, in the whole, the amount at which each share shall be originally limited under the third article of the eleventh section of this act; and such sums so assessed shall be paid to the treas-

grow out of some statutory provision. *Salt Lake City Bank v. Hendrickson*, 11 Vr. 52.

(i) A certificate of stock, accompanied by an irrevocable power of attorney, either filled up or in blank, is, in the hands of a third party, presumptive evidence of ownership in the holder; and the title of a holder for value, without notice of intervening equity, cannot be impeached. Each *bona fide* holder, to whom the certificate is delivered, has power to fill up the certificate and thus obtain title. *Prall v. Tilt*, 1 Stew. Eq. 479. A voluntary transfer of stock perfected by delivery and acceptance becomes an executed contract, and is irrevocable by the owner. *Walker v. Dixon Crucible Co.*, 2 Dick. Ch. Rep. 342.

(j) Owner may vote, notwithstanding hypothecation. Section 39.

(k) Where, by the terms of subscription, the subscriber agreed to take the stock and pay all assessments and charges levied against it—*Held*, that the company could only recover the price after assessment and call. *Grosse Isle Hotel Co. v. I'Anson*, 14 Vr. 442. A subscription to capital stock whereby the subscriber agrees to pay all assessments to be made by the directors, it being shown that the only assessments the board of directors was authorized to make were calls of the capital stock, imports a promise to pay such assessments. So, if there is a naked subscription for a certain number of shares, and the statute under which the corporation has been organized empowers the directors to assess the capital stock, the implied promise is to pay such assessments. *Grosse Isle Hotel Co. v. I'Anson*, 13 Vr. 10. A shareholder whose subscription has been received by the directors, and has received a regular certificate therefor, is entitled to vote and to transfer his stock, even though he has paid nothing for the stock. *Downing v. Potts*, 3 Zab. 66.

urer at such times and by such installments as the directors shall direct, said directors having given thirty days' notice of the time and place of such payment in a newspaper circulating in the county where such company is established. (*Vide* section 143.)

28. Shares of persons neglecting to pay assessment to be sold at auction.

If the owner or owners of any such share or shares shall neglect to pay any sum or sums, duly assessed thereon, for the space of thirty days after the time appointed for the payment thereof, the treasurer of the company may sell, at public auction, such number of the shares of such delinquent owner or owners as will pay all assessments then due from him or them, with interest, and all necessary incidental charges; *provided*, two-thirds of the stockholders in interest shall so direct.^(l)

29. The treasurer shall give notice of the time and place appointed for such sale, and of the sum due on each share, by advertising the same three weeks successively, before the sale, in some newspaper circulating in the county where such company is established, and by mailing a notice to such delinquent stockholder, if he has his post-office address, and shall transfer such shares to the purchaser, who shall be entitled to a certificate therefor.

30. When the capital is fully paid up, certificate to be filed.

The president and directors, with the secretary and treasurer of such company, after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate, stating the amount of the capital so fixed and paid in in cash;^(m) which certificate shall be signed and sworn or affirmed to by the president, secretary and treasurer, and a majority of the directors; and they shall, within thirty days after making the

^(l) Stock once rightly issued can only be forfeited in the mode provided by the charter. *Downing v. Potts*, 3 Zab. 66.

^(m) The requirement is satisfied by a certificate made within thirty days after the officers have decided that the capital is paid in. 3 *Dutch*. 296. This section requires that a certificate be made after the payment of the last installment of the amount upon which business is commenced, and also upon payment of the last installment of any increase thereof between the amount upon which business is commenced and the limit of the original certificate. The thirty-first section requires a certificate to be made after the payment of the last installment of the additional stock beyond the limit of the original certificate. 4 *Id.* 533. When the capital has been paid in property purchased, the certificate must set forth that fact. Section 55. Where the officers certified that the stock had been paid up in cash, when in fact it was paid in property of uncertain value, they were held liable for the debts of the company. 3 *Id.* 198, 296; 4 *Id.* 532.

same, cause the same to be recorded in a book to be kept for that purpose in the office of the clerk of the county wherein the business is conducted, or where their principal place of business or office is located.

31. When increase of capital is fully paid up certificate to be filed.

If any of the said companies shall increase their capital stock, as before provided in this act, the officers mentioned in the preceding section, after the payment of the last installment of such additional stock, shall make a certificate of the amount so added and paid in cash, and sign and swear or affirm to the same, and cause it to be recorded in the manner provided in the preceding section.⁽ⁿ⁾

32. Officers refusing to comply with sections 30 and 31 personally liable.

If any of said officers shall neglect or refuse to perform the duties required of them in the two preceding sections for thirty days after written request so to do by a creditor or stockholder of said company, they shall be jointly and severally liable for all debts of the company contracted before such certificate shall be recorded as aforesaid. (*Vide* note to section 30.)

33. Company may reduce capital stock or change the nature of its business.

Every such company except where otherwise provided in the certificate of incorporation, may, by a vote of two-thirds in interest of the stockholders, or their legal representatives, and in all cases by unanimous consent of the stockholders at any meeting called for that purpose, reduce its capital stock or change the nature of its business; and in such case a certificate of the proceedings, signed and acknowledged as aforesaid, shall, within thirty days after the passing thereof, be recorded in the said book in the clerk's office for the county wherein the business is conducted, or where their principal place of business or office is located, and published for three weeks in a newspaper circulating in said county; and in default thereof, the directors of the company shall be jointly and severally liable for all debts of the company, contracted after said thirty days, and before the publication and recording of the copy of the vote as aforesaid (*vide* section 7); and the stockholders shall also be liable for any such

(n) *Vide* section 220, also 24 and notes.

sums as they may respectively receive of the amount so withdrawn.(o)

34. Dissolution of corporation. Proceedings to be taken.

Whenever, in the judgment of the board of directors of any corporation organized under this act, or incorporated under any law of this state, it shall be deemed advisable and most for the benefit of such corporation, that the same should be dissolved before the expiration of the time limited in its certificate of incorporation or in its charter, it shall and may be lawful for such board of directors, within ten days after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, and of which meeting every director shall have received at least three days' notice, to cause written or printed notice of the adoption of such resolution to be mailed to each and every stockholder of such company residing in the United States, and also within said ten days cause a like notice to be published in one or more newspapers published and circulating in the county wherein such corporation shall have their principal office, and be conducting their business, at least four weeks successively, once a week, next preceding the time appointed for the same, of a meeting of such stockholders to be held at the office of such company in such county, to take action upon such resolution so adopted by the board of directors, and which meeting shall be held between the hours of ten o'clock in the forenoon and three o'clock in the afternoon of the day so named, and which meeting may, on the day so appointed, by consent of a majority in interest of the stockholders present, be adjourned from time to time for not less than eight days at any one time, of which adjourned meeting notice by advertisement in such paper shall be given; and if at any such meeting two-thirds in interest of all the stockholders shall consent that such dissolution shall take place, and signify such their consent in writing, then, and in such case, such company shall, upon filing such consent, duly attested by their secretary (*vide* amendment, section 113), in the office of the secretary of state, and receiving from him a certificate that such consent has been filed, be dissolved; and the board of directors of such company shall cause such certificate to be published four weeks successively, at least once in each week,

(o) For other provisions relative to reductions in capital stock, see sections 117, 120, 138, 169. For provisions relative to increase and changes in par value, see sections 24, 116, 118, 119, 135, 193, 194.

in one or more of the newspapers published and circulating in the county in which such company has been located and conducting its business; and at the expiration of such time the said board shall proceed to settle up and adjust the business and affairs of such company in the same manner as though the same had been dissolved by the expiration of the time mentioned in their charter or certificate of incorporation; (*p*) *provided*, that the secretary of state shall not issue the certificate of dissolution hereinbefore mentioned until satisfied by due proof that the requirements aforesaid have been fully complied with by such corporation.

35. The provisions contained in this act may be amended or repealed, at the pleasure of the legislature, and every company created by this act shall be bound by such amendment; but such amendment or repeal shall not take away or impair any remedy against any such corporation or its officers for any liability which shall have been previously incurred. (*Vide* section 6 and proviso to section 13.)

III. Election of Officers.

36. Transfer books and stock books to be open to inspection for thirty days, and list of stockholders to be made ten days before election of directors.

The book or books of any incorporated company in this state in which the transfer of stock in any such company shall be registered, and the books containing the names of the stockholders in any such company shall at all times during the usual hours of transacting business, be open to the examination of every stockholder of such company for thirty days previous to any election of directors; and that it shall be the duty of the secretary, clerk, treasurer, or other officer of each and every incorporated stock company who shall have charge of the transfer books of said company to prepare and make out, at least ten days before every election of said company, a full, true and complete list of all the stockholders of said company entitled to vote at the ensuing election, with the number of shares held by each, which list shall be made and arranged in alphabetical order, and shall at all

(*p*) Where a corporation has ceased to do business, and nothing remains but to pay debts and divide the surplus, it is the duty of the directors to call a stockholders' meeting. 2 *Stew. Eq.* 21.

times during the usual hours for business be open to the examination of any stockholder of such company; (q) and if any officer having charge of such books or list shall, upon demand by any stockholder, as aforesaid, refuse or neglect to exhibit such books or list, or submit them to examination, as aforesaid, he shall for every such offence forfeit the sum of two hundred dollars, the one-half thereof to the use of the State of New Jersey, and the other moiety to him who will sue for the same, to be recovered by action of debt in any court of record, together with costs of suit; and further, that the book or books aforesaid shall be the only evidence who are the stockholders entitled to examine such book or books, or list, and to vote in person or by proxy at any election for directors of said company, and the persons receiving the greatest number of votes shall be directors or managers. (r)

37. Elections for directors to be by ballot. Poll to be open one hour.

All elections for managers or directors of every incorporated company in this state shall be held by ballot (unless otherwise expressly provided in their respective charters), and that the poll at every such election shall be opened between the hours of nine o'clock in the morning and five o'clock in the afternoon, and shall continue open at least one hour by daylight, and shall close before nine o'clock in the evening.

38. Each share to have one vote, unless by-laws provide otherwise. Proxies good for three years. Stock transferred within twenty days before election cannot be voted on.

Unless otherwise provided in their respective charters, certificates or by-laws, (s) at every such election each stockholder shall be entitled to one vote for each share of the capital stock of said company held by him or her, which vote may be given in person or by proxy; (t) but no proxy shall be voted on, allowed or

(q) This section manifestly does not apply to the first election of directors. *Vide* sections 18, 22, *supra*. It is the common practice to elect the first board of directors at a meeting called, as provided for in section 22, immediately after the certificate of organization is filed. The clause requiring a list to be made out is directory, and the election will be valid, although it be not made. 3 Zab. 66. But see sections 41, 44, *infra*. A failure to elect officers at the time designated will not work a dissolution. 2 Beas. 427.

(r) As between parties, no other evidence of the transfer of property in the stock will avail against the books upon the right to vote. *Election of Cape May, &c., Nav. Co.*, 22 Vr. 78.

(s) *Quere*. Whether it is competent to provide for inequalities in the voting powers of stockholders, unless the power to make such regulations is conferred by the charter. *Election of Cape May, &c., Nav. Co.*, 22 Vr. 78.

(t) Inspectors of an election for directors are required to decide upon the

received, for more than three years from its date; nor shall any share or shares of stock be voted on at any election which have been transferred on the books of the company within twenty days next preceding such election.

39. Executors, trustees, etc., holding stock, and holders of hypothecated stock may vote.

Every person holding stock in any company as executor, administrator, guardian or trustee, shall represent the share or stock in his hands at all meetings of the company, and may vote accordingly as a stockholder; (u) and every person who shall pledge his stock as collateral security, may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder. (v)

40. Non-resident stockholders may vote.

So much and such parts of the several acts of incorporation in this state, or any law thereof as prohibits stockholders residing out of the state from voting on stock held by them, are hereby repealed.

41. Alphabetical list of stockholders to be produced at elections.

The board of directors or managers of each and every incorporated company in this state issuing stock shall be required to produce at the time and place of election of such incorporated company during the whole time such election shall be open, a full, true and complete list of all the stockholders of said company entitled to vote at such election, with the number of shares held by each; which list shall be arranged in alphabetical order, and subject to the inspection of any stockholder who may be present at such election; and upon the neglect or refusal of said directors or managers to produce said list at any election of said company, they shall be ineligible to any office at such election. (w)

admissibility of the votes offered, but they have no power to pass upon the eligibility of the persons for whom votes are proposed to be cast. The question of eligibility is one that can be raised only in the courts. *In re Election of St. Lawrence Steamboat Co.*, 15 Vr. 529. See sections 21, 44.

(u) An executor or administrator, in virtue of section 39, is entitled to vote at an election of directors on the stock standing on the books of the corporation in the name of the testator or intestate, and no formal transfer or entry on the company's books is necessary to enable him to do so. A foreign executor under letters granted at testator's domicile may receive dividends and transfer stock. A foreign executor under letters granted at testator's domicile is the holder of the stock within the meaning of section 39, and on producing an exemplified copy of the letters is entitled to vote on the stock. *Election of Cape May, &c., Nav. Co.*, 22 Vr. 78.

(v) Transfer of shares hypothecated must express the hypothecation. Section 26.

(w) See section 36 and note, *supra*. The list of stockholders must be true,

42. Candidate for office of director cannot be judge of election, except at first election.

No person who is a candidate for the office of director in any incorporated company of this state shall act as judge, inspector or clerk, or in any other character, as the conductor of any election for directors of such company; and in case any person so acting or conducting at any election shall be elected a director his election shall be void, and it shall not be lawful for the directors for the time being to appoint such person to the office of director of such company within twelve months next succeeding such election; *provided*, that this section shall not apply to the first election of directors, in any corporation.

43. Company holding its own stock cannot vote on it.

If any incorporated company in this state shall purchase any of the stock of such company, or take the same in payment or satisfaction of any debt due to them, such company shall not vote, in virtue of their stock so purchased or taken, either directly or indirectly, at any election for directors of said company. (x)

44. Supreme court will summarily investigate complaints touching elections.

It shall be the duty of the supreme court, upon the application of any person or persons, or a body corporate, who may be aggrieved by, (y) or may complain of any election, or any proceeding, act or matter, in or touching the same, reasonable notice having been given to the adverse party, or to those who are to be affected thereby, of such intended application, to proceed forthwith, and in a summary way, to hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matter or causes of complaint, and thereupon establish the election so complained of, or to order a new election, or make such order, and give such relief in the premises as right and justice may appear to said supreme court to require; *provided*, that the said supreme

and persons cannot vote who are not stockholders on the day an election is held, although they were stockholders on the day on which it should have been held. 8 C. E. Gr. 217.

(x) Nor can any one vote on such stock. 1 Gr. 352. A corporation cannot acquire a lien on its stock held by its debtor. 11 Stew. Eq. 340; 18 Wall. 589.

(y) Stockholders have a standing in court to test the legality of an election of directors and the legality of the acts of the inspectors of election. They are parties aggrieved within the meaning of the act. *In re Election of St. Lawrence Steamboat Co.*, 15 Vr. 529. Where votes have been wrongfully rejected, the practice of the court is to set the election aside and to order the admission of those who would have been elected if votes wrongfully rejected had been received. *Election of Cape May, &c., Nav. Co.*, 22 Vr. 78.

court may, if the case shall appear to require it, either order an issue or issues to be made up in such manner and form as the supreme court may direct, in order to try the respective rights of the parties who may claim the same to the office or offices, or franchise in question, or may give leave to exhibit, or direct the attorney-general to exhibit, one or more information or informations in the nature of a *quo warranto* in the premises.

45. By-laws regulating election must be passed at least thirty days before election. Transfer books determine who may vote.

No by-law of the directors and managers of any incorporated company regulating the election of directors or officers of such company shall be valid unless the same shall have been made thirty days previous to any election of such company, and subject to the inspection of any stockholder; and in all cases where the right of voting upon any share or shares of stock of any incorporated company of this state shall be questioned, it shall be the duty of the inspectors of the election to require the transfer book of said company as evidence of stock held in the said company, and all such shares as may appear standing thereon, in the name of any person or persons shall and may be voted on by such person or persons directly by themselves or by proxy, subject to the provisions of the act of incorporation.⁽²⁾

46. If election is not held on the proper day, it may be held afterwards. Justice of supreme court may order it.

If at any time hereafter, the election for directors of any bank, or other incorporated company of this state, shall not be duly held on the day designated and appointed by the act incorporating such bank or other incorporated company, or by the by-laws of any such corporation, it shall be the duty of the president and directors of such bank or other incorporated company to notify and cause an election for directors to be held thereafter as soon as conveniently may be (*vide* sections 128, 129); and in all cases, no share or shares shall be voted upon, except by such person or persons who may have appeared on the transfer books of said company to have had the right to vote thereon, on the day when, by the act of incorporation of such company, or by said by-laws the election ought to have been held; which said right so to vote, shall be exercised by the person so appearing, as aforesaid,

(2) The stock ledger, certificate book and transfer book are evidence of right to vote, but in case of dispute the transfer book controls. 3 Zab. 66; 2 C. E. Gr. 143; 15 Vr. 537.

upon the transfer books of such company, on any day when such election may be held; (2z) no failure to elect directors at the time required by law shall work any forfeiture or dissolution of the corporation, but any justice of the supreme court may summarily order such election to be held upon the application of any stockholder, and punish the directors as for a contempt of court for any neglect or failure to obey the order of such justice in reference to such election.(a)

47. Director must be a stockholder.

It shall not be lawful for any person to be elected a director of any body corporate in this state, issuing stock, unless such person shall be at the time of his election a *bona fide* holder of some of the stock of said body corporate.(b)

48. Director ceasing to be stockholder, ceases to be director.

When any person, a director of any body corporate, shall cease to be a *bona fide* holder of some of the stock thereof, he shall cease thereupon to be a director thereof.

49. Corporations must annually file list of officers and directors.

[As amended by supplement of March 8th, 1877. P. L., p. 103. See section 195, *infra*.]

It shall be the duty of all corporations which may now or hereafter be authorized to transact business in this state, whether organized under general or special laws, although such corporation may not be organized under the laws of this state, and they are hereby required to file, on or before the thirtieth day of June next, and annually thereafter within thirty days after the usual time of the annual election of directors, managers or trustees and the officers thereof, whether such election shall have been held on the day fixed by law or not, in the department of state of this state a complete list, duly authenticated by the signature of the president and secretary, of the names of such directors, managers, trustees and officers, with the date of the election or appointment, term of office and residence of each; and also to designate

(2z) A person cannot vote who is not a stockholder on the day an election is held, although he was a stockholder on the day when it should have been held. 3 C. E. Gr. 217.

(a) The proper proceeding is by *mandamus*. 1 Gr. 352.

(b) The books of the corporation are the only evidence as to who are the stockholders, and, as such, are entitled to vote at elections; but with respect to the qualifications of a director, the company's books are not conclusive. A person may be qualified to be a director whose vote cannot be received at the election by reason of the transfer of stock to him not being entered on the books, and he may appear as a stockholder on the books, and still be disqualified for the office of director, for reasons *aliunde*. In *re Election of St. Lawrence Steamboat Co.*, 15 Vr. 529.

the business and the location of the principal office or place of business of the company in this state, as also in the state where organized; and for this purpose it shall be the duty of the secretary of state to furnish blanks in proper form, and to safely keep in his office all lists so filed, and issue to the company so filing his certificate thereof, and also to prepare an alphabetical index thereto, which lists and index shall be submitted to the inspection of persons interested at all proper hours; and it shall further be his duty during the month of April next to cause a notice of the requirements of this act to be published three times in each of the newspapers in this state authorized to publish the laws; and every such corporation which shall not, within ten days of the time herein fixed, comply with the provisions of this act shall forfeit the sum of two hundred dollars, the one-half thereof to the use of the State of New Jersey, and the other moiety to him who shall sue for the same, to be recovered by action of debt in any court of record, together with costs of suit.

IV. Management and Liabilities of Directors, Etc.

50. Stockholders' meeting to be held at principal office in this state, where such stock and transfer books shall be kept. Directors may meet out of state.

In all cases where it is not otherwise provided by law the meeting of the stockholders of all corporations of this state shall be held at the principal office or place of business of the company in this state; the directors may hold their meetings, and have an office, and keep the books of the company (except the stock and transfer books), outside of this state if the by-laws of the company so provide; (c) *provided, however*, that said company shall always maintain a principal office or place of business in this state, and have an agent of the company in charge thereof, wherein shall be kept the stock and transfer books of the company for the inspection of all who are authorized to see the same, (d) and for

(c) It seems that the board of directors of any New Jersey corporation may lawfully hold meetings out of this state. *Coe v. Midland Railway Co.*, 4 *Stew. Eq.* 105, 117; *Parsons v. Lent*, 7 *Id.* 67.

(d) Entries in the books of a corporation are, as a general rule, competent evidence of the proceedings of the corporation and of the acts and votes of its officers transacted at official meetings, but such entries are not notice to third persons of the acts or resolutions entered upon its minutes. *Wetherbee v. Baker*, 8 *Stew. Eq.* 500.

the transfer of the stock; *and provided further*, that the chancellor or the supreme court, or any justice thereof, may, upon proper cause shown, summarily order any or all of the books of said company to be forthwith brought within this state and kept therein at such place as may be designated for such time as such chancellor, court or judge may deem proper, and upon failure of any company to comply with such order its charter may be declared forfeited by the chancellor or said court, and it shall therefrom cease to be a corporation, and all the directors and officers of said company shall be liable to be punished as for contempt of court for disobedience to such order.^(e)

51. In case of neglect, etc., three stockholders may call meeting.

Whenever, for want of sufficient by-laws for the purpose, or of officers duly authorized, or from the improper neglect or refusal of such officers, or from other legal impediment, a legal meeting of any kind of the stockholders of any corporation cannot be otherwise called, three or more stockholders thereof may call a meeting of the company by giving ten days' notice in a newspaper circulating in the county wherein the business is conducted, or where their principal place of business or office in this state is located; and such meeting so called shall be a legal meeting of the company; and if there be no officers of the company present, whose duty it is to preside at meetings, the stockholders present may elect officers for the meeting; and it shall be the duty of the secretary of the company to record the proceedings of such meeting in the book of minutes of the company.

52. Manufacturing corporations to declare annual dividends.

[This section is given as amended by act of March 17th, 1891. P. L., p. 176. See sections 7, 23, 106, 144.]

All manufacturing corporations within this state shall, on the first day of August in each and every year, unless some other specific day for that purpose be fixed in their charter or by-laws, and in that case then on the day so fixed, after reserving over and above their capital stock paid in as a working capital for said corporation, a sum to be specified by their board of directors, and not exceeding the amount of one-half of the capital stock paid or

(e) The provision requiring all meetings to be held in this state does not apply to corporations having irrevocable charters. 4 *Stew. Eq.* 105. Independent of this provision, a private corporation whose charter has been granted by one state cannot hold meetings and pass votes in another state. 1 *McCart.* 380; *Vide* 3 *Vr.* 132; 7 *Id.* 250.

secured to be paid, declare a dividend of the whole of their accumulated profits exceeding the amount so reserved as a working capital, and pass a share or dividend of each stockholder of such profits to the credit of their respective stockholders, and pay the same to such stockholders on demand; *provided, however*, that when such accumulated profits shall consist in part of real property or merchandise necessarily employed in the business of such corporations, the same shall not be regarded as profits for the purpose of the declaration or payment of such dividend, unless a majority of the board of directors or stockholders shall by resolution declare that all or some part of the accumulated profits which are invested in real estate or merchandise as aforesaid shall be used as a part of the accumulated profits for the purpose of a dividend.

53. If capital be withdrawn without due notice, directors and stockholders liable.

If any part of the capital stock of such company shall be withdrawn and refunded to the stockholders before the payment of all the debts of the company contracted previously to the recording and publishing of a copy of a vote for that purpose, as prescribed in the thirty-third section hereof, the president and directors of the company shall be jointly and severally liable for the payment of the said last-mentioned debts; and the stockholders shall also be liable for any such sums of money as they may respectively receive of the amount so withdrawn.

54. Payment of capital to be in money, and no loans to stockholders.

Nothing but money shall be considered as payment of any part of the capital stock of any company organized under this act, except as hereinafter provided for the purchase of property; ^(f) and no loan of money shall be made to a stockholder or officer therein; and if any such loan shall be made to a stockholder or officer of the company, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable, to the extent of such loan and interest, for all the debts of the company contracted before the repayment of the sum so loaned.

^(f) Courts have inflexibly enforced the rule that payment of stock subscriptions is good as against creditors only where payment has been made in money, or what may fairly be considered as money's worth. *Wetherbee v. Baker*, 8 *Stew. Eq.* 500. For other provisions relative to payment in cash, *vide* sections 116, 209.

55. Stock may be issued for property purchased.

[This section is given as amended by supplement of May 9th, 1889. P. L., ch. 265.]

The directors of any company incorporated under this act may purchase mines, manufactories or other property necessary for their business, or the stock of any company or companies owning, mining, manufacturing or producing materials, or other property necessary for their business, and issue stock to the amount of the value thereof in payment therefor, and the stock so issued shall be declared and be taken to be full paid stock and not liable to any further call, neither shall the holder thereof be liable for any further payments under any of the provisions of this act; and said stock shall have legibly stamped upon the face thereof, "issued for property purchased," and in all statements and reports of the company to be published, this stock shall not be stated or reported as being issued for cash paid into the company, but shall be reported in this respect according to the fact.(g)

56. False certificate renders officers liable for debts.

If any certificate made, or any public notice given by the officers of any company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they were stockholders or officers thereof.

V. Remedies.**1. AGAINST THE CORPORATION.****57. Directors to be trustees on dissolution.**

Upon the dissolution in any manner of any corporation already created or which may hereafter be created by or under any law of this state, the president and directors, or the managers of the affairs of the said corporation at the time of its dissolution, by

(g) For other provisions relative to stock issued for property purchased, *vide* sections 144, 219. Transactions under statutes authorizing corporations to purchase property and issue stock in payment for it, or to accept property in payment of subscriptions to the capital stock, are upheld only where the agreement to purchase property and pay for it in stock has been made in good faith, and the property taken in payment of stock subscriptions has been put in at a fair *bona fide* valuation. *Wetherbee v. Baker*, 8 *Stew. Eq* 500. Where the officers certified that the stock had been paid up in cash, when in fact it was paid in property of uncertain value, they were held liable for the debts of the

whatever name they may be known in law, shall be trustees of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation, at the time of its dissolution, as far as such moneys and property shall enable them.

58. Powers and liabilities of such trustees.

The persons constituted trustees as aforesaid, shall have authority to sue for and recover the aforesaid debts and property, by the name of the trustees of such corporation, describing it by its corporate name, and shall be suable by the same name, or in their own names or individual capacities, for the debts owing by such corporation at the time of its dissolution, and shall be jointly and severally responsible for such debts, to the amount of the moneys and property of such corporation at the time of its dissolution, and which shall come to their hands or possession.

59. Continuance of corporate existence for settling up business.

All such corporations whether they expire by their own limitation, or shall be annulled by the legislature or otherwise dissolved, shall nevertheless be continued bodies corporate for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock, but not for the purpose of continuing the business for which such corporation may be established.

60. On dissolution directors may be continued as trustees, or a receiver may be appointed.

When any corporation shall be dissolved in any manner whatever, the chancellor, on application of any creditor or stockholder of such corporation at any time, may either continue such directors trustees as aforesaid, or appoint one or more persons to be receivers (*h*) of and for such corporation, to take charge of the

company. 3 *Dutch*. 198, 296; 4 *Id.* 532. *Vide* sections 30-32. Where the company pays for property purchased with its capital stock, such sale cannot be set aside, on the ground that the value of such property was not equal to the value of the stock. There must be actual fraud in the transaction to enable creditors of the corporation to call the stockholders to account. *Bickley v. Schlag*, 1 *Dick. Ch. Rep.* 533; *Coit v. Gold Amalgamating Co.*, 119 *U. S.* 345.

(*h*) The power of the chancellor to interpose and take from the directors the power to close up the business of the corporation, and to put its affairs in the hands of a receiver, is a discretionary power to be exercised only on good cause shown, upon proofs which show the need of the interference of the court

estate and effects thereof, and to collect the debts and property due and belonging to the company, with power to prosecute and defend, in the name of the corporation or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by such corporation, if in being, that may be necessary for the final settlement of the unfinished business of the corporation; and the powers of such trustees or receivers may be continued as long as the chancellor shall think necessary for the purposes aforesaid.

61. Chancellor has full jurisdiction.

The chancellor shall have jurisdiction of said application and of all questions arising in the proceedings thereon, and may make such orders, injunctions, and decrees therein as justice and equity shall require.

62. Receivers to pay debts and distribute balance among stockholders.

The said trustees or receivers shall pay all debts due from the corporation, if the funds in their hands shall be sufficient therefor, and if not, they shall distribute the same ratably (i) among all the creditors who shall prove their debts in the manner that shall be directed by an order or decree of the court for that purpose; and if there shall be any balance remaining after the payment of such debts and necessary expenses, they shall distribute and pay the same to and among those who shall be justly entitled thereto, as having been stockholders of the corporation, or their legal representatives.

63. Lien of workmen in case of insolvency.

[This section is given as amended by the supplement of March 31st, 1887. P. L., p. 99.]

In case of the insolvency of any corporation the laborers then or theretofore in the employ thereof shall have a lien upon the assets thereof for the amount due to them respectively, which shall be paid prior to any other debt or debts of said company; and the word "laborers" shall be construed to include all persons doing labor or service of whatever character for or as work-

for the protection of creditors or stockholders from breaches of trust by the directors in the performance of their duties. *Newfoundland R. R. Const. Co. v. Schaack*, 13 *Stew. Eq.* 222. On the appointment of a receiver of an insolvent corporation, its title to its property is divested by force of law. *Freeholders, &c., v. State Bank*, 2 *Stew. Eq.* 268. *S. C.*, 3 *Id.* 311. But see sections 83, 131.

(i) The State of New Jersey does not possess the crown's common law prerogative to have its debts paid in preference to the debts of other creditors. *Freeholders, &c., v. State Bank*, 2 *Stew. Eq.* 268. *S. C.*, 3 *Id.* 311.

men or employes, in the employ of such corporation; (j) and the lien shall have reference to and comprise all claims for such labor or services rendered for or in behalf of such corporations before the date which the court adjudges to be the time when the insolvency occurred which gives it jurisdiction whether such "laborers" were in the actual employ of such corporation at that time or not. (See section 80.)

This act shall not only apply to all proceedings in insolvency hereafter begun, but as well to any now pending where the assets have not been distributed.

64. On dissolution property vests in stockholders.

On the final dissolution of any corporation created under this act, all its real and personal estate, not legally disposed of, shall be vested in the individuals who may be stockholders at the time of such dissolution, in their respective proportions, and they shall hold the same as tenants or owners in common.

65. Suits do not abate on dissolution.

In any action, now pending or to be commenced in any court of record of this state, against any corporation now or heretofore existing, or that may be created hereafter, if said corporation become dissolved, by the expiration of its charter or otherwise, before final judgment obtained therein, the said action shall not abate by reason thereof; but the dissolution of said corporation being suggested, and the names of the trustees of said corporation being entered upon the record, the said action shall proceed to final judgment against the said trustees, by the name of the corporation. (See sections 92, 149.)

(j) As to who are included. 1 *C. E. Gr.* 117. This provision is in derogation of the right of creditors to be paid equally, and must not be extended by construction. A contractor cannot have the benefit of it. The preference is a personal one, adhering to the person who does the work. 2 *Stew. Eq.* 252. And it will not be extended so as to impair existing liens. 4 *Id.* 105. A drayman in the regular employment of the company, and whose services are of a kind necessary to the continuance of the business, is preferred. 3 *Id.* 588. The lien comes into existence as of the date which the court adjudges to be the time when the insolvency occurred which gives it jurisdiction. The laborers have a lien upon the assets. The acceptance of a promissory note without security does not operate as a waiver of the lien; nor does the proving of a claim for a sum in excess of the amount really due work a forfeiture of the right of lien. *D., L. and W. R. R. Co. v. Oxford Iron Co.*, 6 *Id.* 192. Where A entered into agreement with a corporation to serve it for a term of years at a fixed salary, and before the term expired the corporation became insolvent and a receiver was appointed, A is entitled to damages for breach of contract, but his claim for the amount of such damages is not preferred. *Spader v. Mural Dec. Co.*, 2 *Dick. Ch. Rep.* 18.

66. On execution against corporation schedule of property to be shown sheriff.

Every agent or other person having charge of any property of a corporation, on request of any public officer, having for service a writ of execution against it, shall furnish the names of the directors and secretary, or stockholders thereof, and a schedule of all its property, including debts due or to become due to such corporation, so far as he may have knowledge of the same.

67. Execution may be satisfied by debts due the company.

If any such officer, holding an execution shall be unable to find other property belonging to such corporation liable to execution, he or the judgment creditor, may elect to satisfy such execution, in whole or in part, by any debts due the same, not exceeding the amount thereof; and it shall be the duty of any agent or other person having the custody of any evidence of such debt, to deliver the same to the officer, for the use of the creditor; and such delivery, with a transfer to the officer in writing, for the use of the creditor, and notice to the debtor, shall be a valid assignment thereof; and such creditor may sue for and collect the same in the name of such corporation, subject to such equitable set-offs on the part of the debtor as may be in other assignments.

68. Penalty for refusing to comply with above two sections.

Every such agent or other person, who shall neglect or refuse to comply with the provisions of the two preceding sections, shall be himself liable to pay to the execution creditor the amount due on said execution, with costs.

69. When a company becomes insolvent, directors must call a meeting of stockholders.

Whenever any incorporated company in this state shall become insolvent, it shall be the duty of the directors or managers thereof, within ten days thereafter, to call a public meeting of the stockholders, and to lay before them for inspection and examination all the books of accounts, by-laws and minutes of the said corporation, and to exhibit to the said meeting a full and true statement of all the estate, funds and property of the said company, and of all the debts due and owing to the said company, and by whom, and of all the debts owing by the said company, and to whom, as far as the said directors and managers can at that time make out the same; so as to exhibit to the stockholders a full,

fair and true account of the situation of the affairs of the said company.^(k)

70. Bill in chancery for injunction and receiver in case of insolvency.

Whenever any incorporated company shall have become insolvent or shall suspend its ordinary business for want of funds to carry on the same, it shall and may be lawful for any creditor or stockholder to apply, by petition or bill of complaint, to the chancellor, setting forth the facts and circumstances of the case, for a writ of injunction, and the appointment of a receiver or receivers, or trustees; whereupon, the chancellor, being satisfied of the sufficiency of said application, and also of the truth of the facts, and allegations contained in the said petition or bill, by affidavit or otherwise, and upon giving, when so ordered, such reasonable notice, to be served or published, as the chancellor in an order to be made for that purpose shall direct, the chancellor may proceed in a summary way to hear the affidavits, proofs and allegations which may be offered by or on behalf of the parties; and if upon such inquiry into the matters or cause of complaint it shall be made to appear to the chancellor that the said company has become insolvent, and shall not be about to resume its business in a short time thereafter with safety to the public and advantage to the stockholders, it shall and may be lawful for the chancellor to issue an injunction to restrain the said company and its officers and agents from exercising any of the privileges or franchises granted by its certificate or by the act incorporating the said company, and for collecting or receiving any debts, or from paying out, selling, assigning or transferring any of the estate, moneys, funds, lands, tenements or effects of the said company, until the court shall otherwise order.

71. What shall be evidence of insolvency.

Whenever two or more of the directors, or the cashier of any banking company shall admit that the said bank is insolvent or unable to pay its debts, and the said bank shall neglect or refuse to pay its just debts, when demanded within the usual and proper hours of business; or whenever such banking company shall have stopped payment, by neglecting or refusing to redeem their bills, notes or other evidences of debt, in specie or in the notes of some

(k) Since the Revision of 1875 a corporation may prefer one creditor over another. *Wilkinson v. Bauerle*, 14 *Stew. Eq.* 635. But it must be done in a lawful manner. *Bissell v. Besson*, 2 *Dick. Ch. Rep.* 580.

other incorporated bank, current at the time in this state at par value, for want of funds, or shall have closed its doors during banking hours, or taken any other measures with intent to prevent the creditors of the said bank from demanding payment of their just debts, or from presenting the notes or bills of the said bank for redemption as aforesaid; or shall have suspended the ordinary business of the said bank for want of funds to carry on the same; the said banking company shall from the time thereof, be deemed and considered insolvent within the true intent and meaning of this act.

72. Court of chancery may appoint receivers. Powers of receivers.

It shall and may be lawful for the court of chancery, if the circumstances of the case and the ends of justice require it, at the time of ordering the said injunction, or at any other time afterwards during the continuance of the said injunction, to appoint a receiver or receivers, or trustee or trustees, with full power and authority to demand, sue for, collect, receive and take into their possession, all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, *choses in action*, bills, notes and property of every description belonging to the said company at the time of their insolvency or suspension of business as aforesaid; and to sell, convey or assign all the said real or personal estate; and to pay into the court of chancery, all the moneys and securities for money arising from such sales, or which the said receiver or receivers, or trustee or trustees shall collect or receive by virtue of the authority vested in them to be disposed of by the said receiver or receivers, or trustee or trustees, from time to time, under the order of the said court, among the creditors of the said company; first making to the receiver or receivers, or trustee or trustees, such reasonable compensation as the chancellor may deem just and proper, and also deducting the costs of the proceedings in the said court.⁽¹⁾

73. Qualification of receivers. Form of oath.

Before the said receiver or receivers, or trustee or trustees, shall be capable of acting, he or they shall comply with such terms as the chancellor in his order appointing him or them, may prescribe, and he or they shall respectively take and subscribe

(1) On the appointment of a receiver of an insolvent corporation its title to its property is divested by force of law. *Freeholders, &c., v. State Bank*, 2 *Stew. Eq.* 268. *S. C.*, 3 *Id.* 311.

the following oath or affirmation, before one of the masters of the court of chancery, or before the chancellor: "I, ———, do swear (or affirm) that I will faithfully, honestly and impartially execute the powers and trusts reposed in me, as receiver or trustee, (as the case may be), for the creditors and stockholders of the ———, and that without favor or affection," which oath or affirmation shall be filed in the office of the clerk in chancery within ten days after the taking thereof.

74. Receiver may examine witnesses respecting effects of the company.

It shall and may be lawful for the receiver or receivers, or trustee or trustees, in order to enable them to ascertain and secure the property and effects of the company, for which he or they shall be appointed as aforesaid, to send for persons and papers, and to examine the said persons, and the president, directors, managers, cashier, and all other officers and agents of the said company, on oath or affirmation (which oath or affirmation the said receiver or receivers, or trustee or trustees, are hereby empowered to administer), respecting the affairs and transactions of the said company, and the estate, money, goods, chattels, credits, notes, bills, and *choses in action*, real and personal estate and effects of every kind of the said company; and if any such person shall refuse to be sworn or affirmed, and to make answer to such questions as shall be put to him, or shall refuse to declare the whole truth touching the subject-matter of the said examination, then it shall be lawful for the chancellor, on report made to him by the said receiver or receivers, or trustee or trustees, to commit such person to prison, there to remain until he shall submit himself to be examined as aforesaid, and shall pay all the costs of such proceedings against him.

75. May break doors and make search.

It shall be lawful for the said receiver or receivers, or trustee or trustees, with the assistance of a peace officer, to break open, in the day-time, the houses, shops, warehouses, doors, trunks, chests, or other places of said company, for which he or they shall be appointed receiver or receivers, or trustee or trustees, as aforesaid, where any of the said company's goods, chattels, *choses in action*, notes, bills, moneys, books, papers or other writings or effects, have been usually kept, or shall be, and to take possession of the same, and also to take possession of the lands and tenements belonging to said corporation.

76. Receiver to file inventory and accounts.

It shall be the duty of the receiver or receivers, or trustee or trustees, so to be appointed, as soon as they conveniently can, after taking possession of the estate and effects of the company for which he or they shall be appointed as aforesaid, to lay before the court of chancery a full and complete inventory of all the estate, property and effects of the said company, its nature and probable value, and an account of all the debts due from the said company and of the debts due to it, as near as the said receiver or receivers, or trustee or trustees, can ascertain the same at that time; and also to make a report of their proceedings to the said court every six months thereafter, until the said trust shall be completed.

77. Receiver may sue, compound debts, allow set-offs, etc.

The receiver or receivers, or trustee or trustees, so to be appointed, shall be deemed and taken to be a receiver or receivers, or trustee or trustees, for the creditors and stockholders of the company for which they shall be appointed, with full power and authority, whenever they shall deem it proper, to institute suits at law or in equity in his or their own name or names, as receiver or receivers, or trustee or trustees, as aforesaid, for the recovery of any estate, real or personal, debts, rights in action, damages and demands whatsoever and wheresoever existing in favor of the said company at the time of the insolvency or suspension of business, as aforesaid, of the said company, or accruing subsequent thereto; and with power and authority, in their discretion, to compound and settle with any debtor of the said company, or with persons having possession of their property, or in any way responsible, in law or equity; to the said company at the time of its insolvency or suspension of business as aforesaid, upon such terms and in such manner as the said receiver or receivers, or trustee or trustees, shall deem just and beneficial, under all the circumstances, to the persons interested in the funds and property of the said corporation; and in case of mutual dealing between the said corporation and any other person or persons, to allow just set-offs in favor of such persons, in all cases in which it shall appear to the said receiver or receivers, or trustee or trustees, that the same ought to be allowed, according to law and equity; *provided*, that where a debtor shall have paid *bona fide* his debt to the said company, without notice that the said company had become insolvent, or had suspended its business as aforesaid, he, she or they shall

not be liable to pay the same to the receiver or receivers, trustee or trustees.

78. Disputed claim may be tried by jury.

Any creditor who shall lay his claim before the receiver or receivers, or trustee or trustees, appointed in pursuance of this act, may, at the same time, declare his desire that a jury may decide thereon; and in like manner the said receiver or receivers, or trustee or trustees, may require that the same shall be referred to a jury; and in either case, such request shall be entered on the minutes of the said receiver or receivers, or trustee or trustees, and thereupon an issue shall be made up between the parties, under the direction of one of the justices of the supreme court, and a jury empaneled, as in other cases to try the same at the circuit court next to be holden in the county in which the said company carried on their business; the verdict of such jury shall be subject to the control of the supreme court, as in suits originally instituted in the said court, and when rendered, if not set aside by the court, shall be certified by the clerk of the supreme court, to the said receiver or receivers, or trustee or trustees; and such creditor or creditors shall be considered, in all respects, as having proved their debts, for the amounts so ascertained to be due them.

79. Majority of receivers may act. Receiver may be removed.

Every matter and thing by this act required to be done by the receiver or receivers, or trustee or trustees, of any such incorporated company shall be good and effectual, to all intents and purposes, if performed by a majority of them; and it shall and may be lawful for the court of chancery to remove any receiver or receivers, or trustee or trustees, so to be appointed, and to appoint another or others in his or their place or places, or to fill any vacancy or vacancies which may occur, as the said court may deem expedient and proper.

80. Distribution of assets of insolvent corporation.

In payment of the creditors and distribution of the funds of any such company the creditors shall be paid proportionally to the amount of their respective debts, excepting mortgage and judgment creditors when the judgment has not been by confession for the purpose of preferring creditors; (m) and that the said

(m) Judgment creditors are preferred only so far as they have acquired liens. *Doane v. Millville Ins. Co.*, 18 *Stew. Eq.* 274. The State of New Jersey does not possess the crown's common law prerogative to have its debts

creditors shall be entitled to such distribution on debts not due, making in such a case a lawful rebate of interest, when interest is not accruing on the same; and the surplus funds, if any, after payment of the creditors and the costs and expenses as aforesaid, and the preferred stockholders, may be divided and paid to the general stockholders proportionally, according to their respective shares; *provided, however*, that the provisions of this section shall not be held or construed to in any way change, alter or affect the provisions of section sixty-three of said act.

[The proviso is an amendment added by supplement of March 8th, 1877. P. L. 1877, p. 74.]

81. Receiver may be substituted in pending suit.

In all suits in any court of law or equity, which shall be pending in the name of any such incorporated company, as aforesaid, at the time of the appointment of a receiver or receivers, or trustee or trustees, as aforesaid, it shall be lawful for the said courts and they are hereby directed, on application of the said receiver or receivers, or trustee or trustees, to cause the said receiver or receivers, or trustee or trustees, to be substituted as plaintiff or plaintiffs, in the place and stead of the said company, or to carry on such suit in the name of the said company, for the use of the said receiver or receivers, or trustee or trustees. (n)

82. Appeal to the chancellor from receiver's determination.

In case any such company or person or persons, whatever, shall think themselves or himself aggrieved by the proceedings or determination of the said receiver or receivers, or trustee or trustees, in the discharge of their duty, it shall be lawful for the party aggrieved to appeal to the chancellor, who shall, in a summary way, hear and determine the matter complained of, and make such order touching the same as shall be equitable and just; and the chancellor, in the execution of the powers and authority under this act, is hereby vested with all the jurisdiction and power which is lawful for the court of chancery to exercise in suits depending in that court, and may proceed according to the rules, principles and practices of that court, except when otherwise directed by this act; (o) and all cases brought before the chan-

paid in preference to the debts of other creditors. *Freeholders, &c., v. State Bank*, 2 *Stew. Eq.* 268. S. C., 3 *Id.* 311.

(n) The death of the receiver does not abate the action against him. Section 149.

(o) The language of this section embraces every question which may possibly come before receivers for their action. 1 *Stock*. 205.

cellor under this act shall be considered as depending in the court of chancery, and the orders and decisions carried into effect the same as in other causes of equity jurisdiction.

83. Corporation not to transact business after appointment of receiver. Forfeiture of charter.

[This section is given as amended by the act of March 8th, 1877. P. L. 1877, p. 74. That act also adds a further amendment, which will be found below in section 131.]

Whenever an injunction shall have been granted against any incorporated company, as provided for in this act, and a receiver or receivers or trustee or trustees, shall have been appointed, as further provided for, and said injunction and appointment shall have continued for four months, it shall not be lawful for the stockholders or directors of said corporation, or any other person whatever to use or exercise the franchises of such corporation, or to transact any business in their name, or by color of their charter, except such as may be necessary to collect their property and assets, and to sell the same, and distribute the proceeds among the creditors and stockholders of said corporation; and that for all other purposes the chancellor may at any time, by order, in such suit or proceeding, with or without notice to any one, and without any further proceedings or judgment, declare the charter of said corporation forfeited and void. (*Vide* section 131.)

84. Mortgaged property in litigation may be sold free of all liens.

Where the property of an insolvent corporation, in the hands of a receiver or receivers or trustee or trustees appointed under the laws of this state, is encumbered with mortgages or other liens, the legality of which is brought in question, and the property is of a character materially to deteriorate in value pending the litigation, the court of chancery may order such receiver or receivers, or trustee or trustees to sell the same, clear of encumbrances, at public or private sale, for the best price that can be obtained, (p) bringing the money into the court of chancery, there to remain subject to the same liens and equities of all parties in interest, as was the property before it was sold, and to be disposed of as the said court, by its decree, shall order and direct.

85. Franchise of railroad, canal, etc., may be sold.

Whenever receivers or trustees, appointed or to be appointed

(p) This provision is remedial in its nature, and must be construed accordingly. The words "the legality of which is brought into question," extend to all litigation between encumbrancers, respecting the validity, extent or priority of their liens. 12 C. E. Gr. 557. (*Vide* section 131.)

by virtue of this act, for the creditors and stockholders of any company, shall have charge of any canal, railroad, turnpike or other work of a public nature, in which the value of the work is dependent upon the franchise, and in the continuance of which the public as well as the corporators and creditors of such company have an interest, it shall be lawful for such receivers or trustees to sell or lease the principal work for the construction whereof the said company were incorporated, together with all the chartered rights, privileges and franchises belonging to said company and appertaining to such principal work; and the purchaser or purchasers, lessee or lessees of such principal work, chartered rights, privileges and franchises, shall thereafter hold, use and enjoy the same during the whole of the residue of the term limited in the charter of said company, or during the term in such lease specified, in as full and ample a manner as the stockholders of such company could or might have used and enjoyed the same; subject, however, to all the restrictions, limitations, and conditions contained in such charter; *provided*, that nothing in this section contained shall be so construed as to apply to or in any wise affect any corporation authorized by law to exercise banking privileges.

86. None of the provisions relative to insolvency apply to religious or literary societies.

Nothing in this act contained relating to insolvent corporations shall apply to any incorporated literary or religious society, or any corporation not formed for purposes of gain, or destroy or impair any right or remedy already existing against any incorporated company.

87. Process against a corporation to be summons. Method of service.

When any personal action (*q*) shall be commenced against a corporation in any of the courts of law of this state, the first process to be made use of may be a summons, a copy whereof shall be served on the president, or other head officer of the said corporation, or left at his dwelling-house or usual place of abode, at least six entire days before its return; and in case the president or other head officer of the said corporation cannot be found in this

(*q*) The eighty-seventh and eighty-eighth sections do not apply to prerogative writs, which are enforceable only by attachments for contempt; they relate only to personal actions where the fruits of litigation are secured by a common law judgment. *Freeholders of Mercer v. Penna. R. R. Co.*, 12 *Vr.* 250. (*Vide* section 134.)

state, to be served with process as aforesaid, and has no dwelling-house, or usual place of abode within this state, then a copy of the said summons shall be served on the clerk or secretary of the said corporation, if any there be, and if no clerk or secretary, then on one of the directors of the corporation, or left at his dwelling-house or usual place of abode, six entire days before its return. (r)

88. Service of process on foreign corporations.

In all personal suits or actions hereafter brought in any court of this state against any foreign corporation or body corporate, not holding its charter under the laws of this state, process may be served upon any officer, director, agent, clerk or engineer of such corporation or body corporate, either personally or by leaving a copy thereof at the dwelling-house or usual place of abode of such officer, director, agent, clerk or engineer, (s) or by leaving a true copy of such process at the office, depot or usual place of business of such foreign corporation or body corporate, and such service shall be good and valid to all intents and purposes.

89. When the sheriff or other officer shall return such summons "served" or "summoned," the defendant shall be considered as appearing in court, and may be proceeded against accordingly. (t)

90. Publication when summons not served.

In case the sheriff or other officer shall return such summons "not served" or "not summoned," and an affidavit shall be made to the satisfaction of the court that process cannot be served as mentioned in the eighty-seventh section of this act, then the court shall make an order directing the defendants to cause their appearance to be entered to the said action, on or before the first day of the next term of the said court, a copy of which order

(r) This section only applies to process issued in the higher courts, and not to justices' courts. 7 Vr. 361. Service on a foreman is bad. 1 Harr. 454. So, on a book-keeper. 5 Vr. 322. But service on any officer or agent whose official duty would require him to notify the governing board is good. *Ibid.*

(s) If a corporation makes a contract in a state other than that in which it was chartered, it thereby submits itself to the jurisdiction of such foreign sovereignty, so far as to be liable to suit therein in regard to that contract. *Moulin v. Ins. Co.*, 4 Zab. 222; 1 Dutch. 57; *National, &c., Co. v. Bradenburgh*, 11 Vr. 111. When a foreign corporation enters this state for the transaction of business, the person to whom it commits the management of its business here becomes the agent of the corporation for the purpose of receiving service of process in all actions arising in this state out of the conduct of the business. *Norton v. Berlin Iron Bridge Co.*, 22 Vr. 442. *Vide* section 134.

(t) What a sheriff, in his return, adds to the statutory return "served" or "summoned," is surplusage. 22 Vr. 442.

shall, within twenty days, be inserted in one of the public newspapers printed in this state, for at least six weeks, and a copy of the same order shall also be posted up within the time aforesaid, in three public places in this state, as shall be ordered by the said court, for at least six weeks, and if the defendants shall not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of the due publication of such order, the court being satisfied of the truth thereof, shall order the clerk to make an appearance for the defendants, and thereupon the action shall be further proceeded in as if the said defendants had caused their appearance to be entered to the said action.

91. The action is a lien on the company's lands.

It shall not be lawful for any corporation, against whom any order shall be made for publication, as aforesaid, after the entry of the said order in the minutes of the court, to grant, bargain, sell, alien or convey any lands, tenements or real estate in this state (in case the said summons issued out of the supreme court), or in the county in which the said summons shall have been issued (in case the said summons issued out of one of the inferior courts of common pleas in this state), of which said corporation shall be seized or entitled to at the time of making such order, until the plaintiff in the action shall be satisfied his legal demand, or until judgment shall be entered for the defendants; and the said action shall be and remain a lien on such lands, tenements and real estate, from the time of entering the said order for publication in the minutes of the court, and the said lands, tenements and real estate shall and may be sold on execution, as if no conveyance had been made by the said corporation.

92. Dissolution of corporation does not abate suits.

In any action now depending or to be commenced in any court of record of this state, against any corporation now or heretofore existing, or that may be created hereafter, if said corporation become dissolved, by the expiration of its charter or otherwise, before final judgment obtained therein, the said action shall not abate by reason thereof; but the dissolution of said corporation being suggested, and the names of the trustees or other legal representatives of said corporation being entered upon the record, the same action shall proceed to final judgment against said trustees or other legal representatives by the names of the corporation. (See sections 65, 149.)

2: AGAINST DIRECTORS AND STOCKHOLDERS.

93. Liabilities of officers and directors may be enforced by action on the case.

When any of the officers or directors of any company, or stockholders thereof shall be liable, by the provisions of this act, to pay the debts of such company, or any part thereof, any person to whom they shall be so liable may have an action on the case against any one or more of the said officers, directors or stockholders; and the declaration in such action shall state the claim against the company, and the ground on which the plaintiff expects to charge the defendants personally.(u)

94. Or by bill in chancery.

When any of the said officers, directors or stockholders are liable, as mentioned in this act, for the debts of any such company, or any part thereof, the person to whom they are so liable may, instead of the other proceedings mentioned in this act, have his remedy against the said officers, directors or stockholders by a bill in chancery.(v)

95. Officers and stockholders who pay company's debts may recover of company.

Any officer, director or stockholder of a company, who shall pay any debt of the company for which he is made liable by the provisions of this act, may recover the amount so paid, in an action against the company for money paid for their use, in which action the property of the company only shall be liable to be taken, and not the property of any stockholder.

96. Property of director or stockholder not to be sold for company's debt until execution has issued against the company and been returned unsatisfied.

No sale or other satisfaction shall be had of the property of any director or stockholder for any debt of the corporation of which he is such director or stockholder till judgment shall have been obtained therefor against such corporation, and execution

(u) The provisions which make directors and officers personally liable for the debts of the company are for the benefit of creditors, and not stockholders. 11 *C. E. Gr.* 219. Personal liability of directors and stockholders is inconsistent with the idea of a body corporate at common law, and can only arise out of some statutory provision. 11 *Vr.* 52.

(v) The proceeding must be by a general creditor's bill for the benefit of all. *Wetherbee v. Baker*, 8 *Stew. Eq.* 507; *Bickley v. Schlag*, 1 *Dick. Ch. Rep.* 533.

thereon returned unsatisfied, but any suit brought against any such director or stockholder for such debt shall stay after execution levied or other proceedings to acquire a lien until such return shall have been made. (*Vide* section 5 and note.)

VI. Miscellaneous.

97. Applications for special charters and for renewals of charters to be advertised.

When any person or persons shall be disposed to make application to the legislature of this state for an act of incorporation, for any purpose whatever, or any company or association, already incorporated, shall be disposed to make application for a renewal of their charter, or any alteration in the law so incorporating them, or when any application shall hereafter be made for the purpose of obtaining a law authorizing the erection of a bridge over any navigable water in this state, it shall be the duty of such person or persons so applying, or the directors or stockholders of such incorporation, or some of them, to signify his or their intention, by advertisement, to be inserted for at least six weeks, successively, in one or more of the newspapers published in the county where the objects of such association or corporation are carried or intended to be carried into effect; and if no newspaper be published in such county, then in the newspaper or newspapers published nearest to the same; and specify the object of such incorporation or application, the amount of capital stock requisite to carry their objects into effect; and in case of an application for any alteration in any charter already granted, it shall be the duty of the stockholders or directors of such incorporation to state in such notice, specifically, the alteration so to be applied for; and that due proof shall be made of such notice having been published previous to leave being given to bring in any bill to comply with such application. (*w*)

98. Companies formed under Manufacturing Company act of 1846 may come under this act.

Any company formed under and pursuant to an act entitled

(*w*) By Article IV. of amendments to the constitution, which took effect September 27th, 1875, it is provided that "the legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized, and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature."

"An act to authorize the establishment and to prescribe the duties of manufacturing companies," approved the twenty-fifth day of February, eighteen hundred and forty-six, and the several supplements thereto may come under and be subject to the provisions and liabilities of this act, in the same manner as if formed under the same, if such company make a certificate under the hands of the president and directors of the company, that said company desires to come under the said provisions and liabilities; which certificate shall be acknowledged, recorded and filed in the same manner as the certificate required by this act; and such company, on the recording and filing of said certificate as aforesaid, shall be free from the liabilities and provisions of the said act under which said company was formed; *provided*, that nothing in this section contained shall be held to affect any transaction, liabilities or debts of any such company heretofore done, accrued or contracted.

99. Foreign corporations may hold and mortgage lands in this state.

[This section is given as amended by the supplement of April 11th, 1887. P. L., p. 157. The supplement omits the preamble, but as there is no express repealer, it is inserted here.]

Whereas, by the laws of this state, corporations are authorized to carry on a portion of their business out of this state, and such general provision is embraced in the laws of other states granting such powers; *and whereas*, doubts have arisen as to whether foreign corporations can hold, mortgage and convey lands in this state; therefore it shall be lawful for foreign corporations to acquire, hold, mortgage, lease and convey such real estate in this state as may be necessary for the purpose of carrying on the business of such corporations in this state, or such as they may acquire by way of mortgage or otherwise in the payment of debts due to said foreign corporation; and foreign corporations having charter authority to engage in the business of acquiring, holding, mortgaging, leasing and conveying real estate are hereby authorized to pursue the conduct of such business in this state, and to that end to acquire, hold, mortgage, lease and convey real estate in this state; and any conveyances or mortgages to or by such foreign corporations of lands in this state heretofore made, are hereby declared to be good and valid in this state, both in law and equity. (See sections 1, 103, 137, 150.)

100. Contracts for transfer or merging of franchises by corporations must be recorded.

All contracts or agreements for the sale, letting, leasing, con-

solidating, merging, or in any manner disposing of or transferring the franchises, privileges, or any part thereof, of any company or organization incorporated by or under the laws of this state, shall be acknowledged or proved as conveyances of land in this state are authorized to be acknowledged or proved, and shall be recorded in the office of the secretary of state within two months after the execution thereof, at the proper cost of the parties thereto; and unless such contract or agreement is lodged with the secretary of state for record within thirty days from the date of the execution thereof, the same shall be of no effect until recorded; and copies of the said record, duly certified by the secretary of state, shall be received in evidence in any court of this state, and be as good, effectual and available in law as if the original contract or agreement was then and there produced; *provided, nevertheless*, that this act shall not be held or construed by any court or by any officer or person whomsoever, as having rendered, or as rendering invalid or of no effect any such contract or agreement as in said act mentioned, as between the parties to such contract or agreement, nor in favor of or for the benefit of any person or corporation having notice of such contract or agreement, although such contract or agreement has not been or may not be lodged for record or recorded according to the directions of said act; but every such contract or agreement which has not been, and which may not hereafter be lodged for record and recorded pursuant to the directions of said act, shall, between the parties to such contract or agreement, and as to every person or corporation having notice thereof, have the same force and effect as if such contract or agreement had been lodged for record and recorded pursuant to the directions of said act, and such contracts or agreements may be lodged for record and recorded at any time, and from the time of lodging the same for record shall be considered as duly notified to all persons entitled to notice thereof.

101. Repealer of Manufacturing Company act of 1846.

"An act to authorize the establishment, and to prescribe the duties of manufacturing companies," approved February twenty-fifth, eighteen hundred and forty-six, and the several supplements thereto, are hereby repealed; but no company established under the said act, or any of said supplements, or any person having claims or demands against said company, shall be affected by the repeal thereof.

102. Repealer of Manufacturing Company act of 1849.

"An act to authorize the establishment and to prescribe the duties of companies for manufacturing and other purposes," approved March second, eighteen hundred and forty-nine, and the several supplements thereto, are hereby repealed; but no company established under the said act or any of the said supplements, or any person having claims or demands against said company shall be affected by the repeal thereof.

103. Foreign corporations, doing business in this state, shall be subject to all the provisions of this act, so far as the same can be applied to foreign corporations. (See sections 1, 99, 137, 150.)

104. General repealer.

All acts and parts of acts, general or special, inconsistent herewith, be and the same are hereby repealed.

105. Taxation of property of corporations.

[This section is given as amended by act of March 7th, 1878, which strikes out the word "hereafter" at the *. By act of March 14th, 1879, corporations are taxed on capital and surplus. *Vide* section 123. By act of May 11th, 1886, the property of manufacturing companies is taxed the same as that of an individual. *Vide* sections 123, 157 to 164, and 174.]

All the real and personal estate of every corporation* incorporated by any act of the legislature, or by the filing of a certificate or otherwise under any general law of this state, shall be taxed the same as the real and personal estate of an individual; (x) *provided, however,* that the provisions of this section shall not apply to railway, turnpike, insurance, canal or banking corporations, or to savings banks, or to cemeteries, church property, or purely charitable or educational associations.

106. Company may change time for declaring dividends and electing officers.

[Supplement, approved April 5th, 1876. P. L., p. 74.]

When a company incorporated under the laws of this state, is limited by its charter to certain fixed times for declaring dividends, or for holding its annual meetings of stockholders for the election of directors, such corporation shall have power at any time to change the time or times for declaring its dividends and holding said annual meetings, upon the vote of two-thirds in

(x) The act of March 7th, 1878, which amended this section by striking out the word "hereafter" at the *, thus making its application general, extending to all corporations not expressly excepted from its operation, is constitutional, and corporations are taxable as therein provided *Trenton Iron Co. v. Yard*, 13 Vr. 357. See act of 1886, *infra*, § 174.

interest of its stockholders at any regular meeting of said stockholders.(y)

107. Water companies.

[Supplement, approved April 12th, 1876. P. L. 1876, p. 103.]

[This supplement, containing thirteen sections, relates exclusively to the "damming of rivers and streams, including the storage, transportation and sale of water and water-power and privileges," etc. The first section is an amendment of section 10, *supra*, and is incorporated therein. The remaining sections grant power to dig canals, dam rivers and streams, condemn and take lands, to issue bonds, and connect works with those of other corporations. The supplement is amended by act of March 14th, 1878. P. L. 1878, p. 90. See, also, act of April 21st, 1876, P. L., p. 318, providing for formation of water companies. See *Atlantic City Water Works Co. v. Atlantic City*, 12 *Stew. Eq.* 367; also, *Atlantic City Water Works Co. v. Consumers' Water Co.*, 17 *Id.* 427; also, *Reed v. Atlantic City*, 20 *Vr.* 558; *S. C.*, 21 *Id.* 665; see, also, *Rev. Sup.*, 155, 650.]

108. Plank road companies. Residence of directors.

[Supplement of April 21st, 1876. P. L. 1876, p. 237. See sections 112, 133, 218.]

It shall not be necessary hereafter for more than a majority of the directors of any plank road company heretofore or hereafter organized under the act to which this is a supplement, or under any other act, or in pursuance of any special charter, to be residents of this state.

109. Corporate existence may be extended.

[Supplement of April 21st, 1876. P. L., p. 235. See sections 136, 177, 178, 179, 187, 198, 199.]

SEC. 1. It shall be lawful for any corporation heretofore or hereafter created under or by virtue of any law of this state, at any time before the expiration of its charter, or of the period named in its certificate of organization, to file in the office of the secretary of state a certificate under its common seal, attested by the signature of its presiding officer, declaring its desire that the period of its existence as such corporation shall be extended for any time therein mentioned not exceeding fifty years.

110. On filing certificate the corporate existence is extended.

SEC. 2. Upon making and filing such certificate, the period of the existence of such corporation shall be extended as declared in such certificate as fully as if the said period had been named in the original charter or certificate of organization of such corporation.

111. But this act shall not make irrevocable charters.

SEC. 3. Nothing herein contained shall be construed to interfere with the right of the State of New Jersey, reserved by any law now or hereafter existing, to acquire the property and franchises of any such corporation, or at any time to abolish or repeal, alter or amend the charter of the same, nor shall this act be construed to continue any irrevocable or other contract with the state con-

(y) For other provisions respecting dividends, see sections 7, 25, 52, 53, 144.

tained in any charter beyond the time originally fixed for its expiration.

112. Residence of directors of water or manufacturing companies not limited, provided that a majority reside in this state.

[Supplement of February 21st, 1877, as altered by supplement of March 29th, 1878. P. L., p. 212.]

SEC. 1. It shall not be necessary for any of the directors of any water or manufacturing company heretofore or which may be hereafter organized under the act to which this is a further supplement, or any other act, general or special, or in pursuance of any special charter, to reside in any specified township or city in this state, although it may be so required by any such special act or special charter; neither shall it be necessary to limit the number of directors of any such company so organized or which may be so organized under any of such acts or under any such special charter, to the number named therein or in any of them; *provided*, that the directors of any such company shall not be less than three in number; *provided*, that a majority of the directors of any such company shall be residents of this state. (z)

113. Upon dissolution, list of directors and officers to be filed.

[Supplement, approved February 21st, 1877. P. L., p. 20.]

SEC. 1. Section thirty-four of the act to which this is a supplement, and which now reads as follows: (*vide* section 34) be and the same is hereby amended so that the board of directors of any corporation desiring a dissolution thereof as therein provided, shall, in addition to the other acts and things therein required to be done, file with the secretary of state a list of the names and residences of the then existing board of directors, with its officers, which list shall have been duly verified by the secretary or president of said board, and the secretary of state shall not issue the certificate of dissolution therein mentioned until such list shall have been filed as aforesaid.

114. Any corporation may change its name.

[Supplement, approved February 21st, 1877. P. L., p. 22.]

SEC. 1. It shall be lawful for any corporation existing under and by virtue of the laws of this state, whether created by special charter or otherwise, to change its corporate name (a) by a two-thirds vote of the board of directors or managers of such corpo-

(z) For a discussion of the law respecting the residence of directors, see *New Jersey Law Journal*, for November, 1890, p. 347. See sections 108, 133, 218.

(a) As to misnomer and acquisition of name by usage, see notes to section 1.

ration, who shall be present at a regular or special meeting called for that purpose; *provided*, that the corporation cause to be made and filed a certificate in writing, in manner hereinafter mentioned; such certificate in writing shall set forth:

I. The name of such corporation in use immediately preceding the vote, and making and filing the said certificate.

II. The name assumed to designate such corporation and to be used in its business and dealings in the place and stead of that referred to in the last preceding paragraph, and which said certificate shall be signed by the board of directors, or a majority of said board, and filed, in pursuance of the act to which this is a supplement, in the office of the clerk of the county where the principal office or place of business of such corporation in this state shall be established; and after being so recorded shall be filed in the office of the secretary of state; and to which certificate shall be affixed the official seal of said board and the affidavit of the secretary or acting secretary of such corporation, that the said certificate is made by the authority of the board of directors or managers of such corporation, as expressed by a two-thirds vote of the members present at a regular or special meeting of said board, called for that purpose.

115. Change not effected until certificate actually filed. Liability and pending suits not affected.

SEC. 2. No change in the name of any corporation, under the provisions of this act shall be deemed effected until the said certificate, made and recorded as aforesaid, shall be actually filed in the office of the secretary of state, as herein directed; but no such change shall in manner lessen or impair any liability of such corporation incurred or existing at the time such change of name shall be made, which liability shall continue and be capable of being enforced against such corporation by its name as so changed, or by its original name; and no suit pending at the time of such change of name shall abate by reason thereof, but the same may be prosecuted to judgment and execution in the original name of such corporation, and under any such execution the property of said corporation, whether held by its original or amended name, may be levied on and sold to satisfy such judgment.

116. Any company may increase its capital stock and number of directors.

[Supplement, approved March 9th, 1877, as amended by a further supplement, approved March 23d, 1883, and a further supplement, approved April 14th, 1886. *P. L.* 1886, p. 226.]

When any company incorporated under the laws of this state by special act of incorporation, or otherwise, is limited, by its charter, or otherwise, to a certain amount of capital stock, and a certain number of directors, such corporation shall have power to increase the amount of its capital stock^(b) or the number of its directors, ^(c) or both, on filing with the secretary of state the assent, in writing, of stockholders representing two-thirds in value of the existing capital stock, and a certificate setting forth the amount of capital stock, and number of directors as increased, and the certificate of the secretary of state that such assent and certificate have been filed in his office, shall be taken and accepted as evidence of such increase in any court of this state; *provided*, that the additional capital stock authorized under this act shall be paid for in cash,^(d) or shall be issued in payment for land and other property acquired by said company for the purposes of its incorporation and for improvements upon or to its property to the amount of the value thereof; *and provided further*, in the case of any company having two or more classes of stock, common and preferred, such increase may be in any one or more classes of stock, whether common or preferred, and such assent shall be by stockholders representing two-thirds in value of each class of existing capital stock, whether common or preferred.

117. Company incorporated by special act may decrease its capital stock.

[Supplement of February 21st, 1878, amended by supplement, approved March 17th, 1882. P. L. 1882, p. 139.]

When any company incorporated under the laws of this state by special act of incorporation, is limited by its charter to a certain amount of capital stock, such corporation shall have power, from time to time, to decrease the amount of its capital stock on filing with the secretary of state the assent, in writing, of stockholders representing two-thirds in value of the existing capital stock, and a certificate setting forth the amount of capital stock as decreased, and published for three weeks in a newspaper circulating in the county in which the place of business of any such company is located; and in default thereof the directors of the company shall be jointly and severally liable for all debts of the company contracted before the filing of the said certificate, and the stockholders shall also be liable for any such sums as

(b) For other provisions relative to increase, see section 24 and notes.

(c) See sections 1, 17, 173, 184.

(d) For other provisions relative to payment in cash, *vide* sections 54, 209.

they may respectively receive of the amount so reduced; and the certificate of the secretary of state that such assent and certificate have been filed in his office shall be taken and accepted as evidence of such decrease in any court of this state; *provided*, no such reduction of stock shall be construed to effect any reduction of the taxes that may be required to be paid by the special acts respectively incorporating such companies. (See sections 33, 120, 169.)

118. Any company may change the par value of its shares.

[Supplement, approved March 20th, 1878. P. L., p. 157.]

Any company organized under the provisions of said act may change the par value of the shares of its capital stock by filing in the office of the secretary of state the assent, in writing, of stockholders representing two-thirds in value of the capital stock for the time being, and also a certificate, under the hands and seals of said stockholders, or their legal representatives, stating the par value to which it is proposed to change said shares, which said certificate shall be proved or acknowledged and recorded in the manner provided in said act for the original certificate of organization, and the certificate of the secretary of state that such assent and certificate have been filed in this office, shall be taken and accepted as evidence of such change of par value in any court of this state; *provided, however*, that such assent and certificate shall be filed as aforesaid within thirty days after the execution of the same by said stockholders.

119. Increase of number of shares by subdividing.

[Supplement, approved March 6th, 1879. P. L., p. 88.]

Any company or association organized under the act to which this is a supplement, or otherwise, may increase the number of its shares of stock by subdividing the amount of each share, including therein as well the par value thereof as also any assessments actually paid in thereon, into shares of such equal par value as it may agree on, by filing in the office of the secretary of state the assent in writing of stockholders representing two-thirds in value of the capital stock for the time being, and also a certificate under the hands and seals of said stockholders, or their legal representatives, stating the par value which it is proposed to fix said shares, which certificate shall be proved or acknowledged and recorded, as required of deeds of real estate, in the book kept for recording corporation certificates, in the office of the clerk of the county where the principal office or place of business of such company in this state shall be established, and after being so recorded shall

be filed in the office of the secretary of state; and the certificate of the secretary of state that such assent and certificate have been filed in his office shall be taken and accepted as evidence of such subdivision of said shares and alteration of their par value in any court of this state; *provided, however*, that such assent and certificate shall be filed as aforesaid, within thirty days after the execution of the same by said stockholders; *and provided further*, that in no case shall the capital stock of any such company filing such certificate and assent be increased thereby beyond the amount limited in its charter or certificate of organization, except in the manner now provided by the act to which this is a supplement. (e)

120. Bank whose capital is impaired may reduce capital and issue new stock.

[Supplement of February 10th, 1880. P. L., p. 23.]

Any banking corporation having capital stock divided into shares, and created under the laws of this state by special act of incorporation or otherwise, the capital of which has become impaired, shall have power to reduce the par value of each share of its stock to such an amount as shall be agreed on by the consent of stockholders representing two-thirds of its capital stock, and shall also have power, by like consent, to determine to issue so many additional shares of its capital stock at the par value so fixed as by a like consent shall be agreed to, not exceeding in the whole, with the shares of stock previously issued and outstanding, at the par value so fixed, the amount of capital limited by its act of incorporation or certificate of organization; and upon filing in the office of the secretary of state a certificate in writing, signed by stockholders representing two-thirds of its capital stock, setting forth the number of shares of stock previously issued and outstanding, the reduced par value fixed and agreed on, and the number of additional shares of stock agreed on and determined to be issued, then and from thenceforth the par value of such stock shall be taken and considered to be the amount so fixed and certified, and the additional shares so determined to be issued may be issued in the following manner, viz.: the directors, managers, trustees or other governing body of such corporation shall give not less than ten days' notice, by advertisement in one or more newspapers of the state and by circulars sent by mail to the stockholders whose post-office address is known, of a time and place when they will open books of subscription for such

(e) For other provisions relative to increase, see section 24 and notes.

additional shares of stock, and at such time and place shall receive subscriptions therefor; the previously existing stockholders of such corporation shall each be entitled at such time and place to subscribe for and take such proportion of such additional stock as their shares bear to the total number of previously existing shares, and if any additional stock is not so taken by stockholders, within ten days after the books for that purpose are opened, it may be subscribed for and taken by any person or persons.

SEC. 2. When said stock is so subscribed, taken and paid for, the directors shall cause a certificate thereof to be filed in the office of the secretary of state, and thereupon the persons so subscribing, taking and paying for said additional stock shall become stockholders to the amount and proportion of stock so taken by them.

121. Corporation in hands of receiver may, in reorganizing, mortgage its property.

[Supplement, approved February 26th, 1878. *P. L.*, p. 29.]

Any corporation which now is, or hereafter shall be, in the hands of receivers, or of a receiver, by virtue of proceedings in the court of chancery, may, whenever such corporation shall be reorganizing or arranging its property and debts to resume the management and control of its property and business, with the consent of the court of chancery, mortgage its property and franchises for such amount as may be necessary, at a rate of interest not exceeding the rate of interest secured by any pre-existing mortgage of real estate made by such corporation.

122. Company formed under the act of 1849 may come under this act.

[Supplement of March 4th, 1879. *P. L.*, p. 348.]

SEC. 1. Any company formed under and pursuant to "An act to authorize the establishment and to prescribe the duties of companies for manufacturing and other purposes," approved the second day of March, one thousand eight hundred and forty-nine, and the several supplements thereto, may come under and be subject to the provisions and liabilities of the act to which this is a supplement, in the same manner as if formed under the same, if such company make a certificate, under the hands of the president and directors of the company, that said company desires to come under the said provisions and liabilities, which certificate shall be acknowledged, recorded and filed in the same manner as the certificate required by this act; and such company, on the recorded and filing of said certificate as aforesaid, shall be free from the liabilities and provisions of the said act under which said

company was formed; *provided*, that nothing in this supplement contained shall be held to affect any transaction, liabilities or debts of any such company heretofore done, accrued or contracted.

123. Corporations to be taxed on capital stock at actual value and surplus.

SEC. 2. All corporations, whether manufacturing corporations or otherwise, organized or acting under the provisions of this act, or the act to which this is a supplement, shall hereafter be taxed upon their capital stock at its actual value and accumulated surplus.^(f)

124. Co-operative companies may be formed with capital from \$1,000 to \$50,000.

[Supplement, approved March 12th, 1880. P. L., p. 326.]

For the purpose of co-operation in carrying on any manufacturing or co-operative trade authorized by the tenth section of the act to which this is a supplement, seven or more persons may associate themselves with a capital of not less than one thousand or more than fifty thousand dollars.^(g)

125. Corporation may remove principal office.

[An act authorizing corporations created by special charters or otherwise to remove their principal office from the place designated in their charters to such other place as may be deemed best by the corporations. Approved February 25th, 1880. P. L., p. 49.]

It shall be lawful for any corporation existing under and by virtue of the laws of this state, whether created by special charter or otherwise, to locate its principal office at such place in this state as may be for the best interests of its business, irrespective of the location of the principal office named in the charter or articles of organization of the corporation; *provided*, that such corporation cause to be made and filed a certificate in writing, in manner hereinafter mentioned; such certificate shall set forth, *first*, the name of such corporation and the city or town in which it is located by charter, or in which its principal office had previously been located; and, *second*, the place, town or city in which it proposes to locate the principal office for its business and dealings in the place and stead of that referred to in last preceding paragraph, and which said certificate shall be signed by the board of directors, or a majority of said board, and filed in the office of the secretary of state, and to which certificate shall be affixed the

^(f) For other provisions regarding taxation of corporations, *vide* sections 105, 157 to 164, and 174. "Accumulated surplus" means the property or funds which the corporation has in excess of its capital stock, and above all its debts and liabilities. 5 Vr. 489; *Id.* 479; 6 *Id.* 575; 13 *Id.* 357. This section does not repeal the act of March 7th, 1878. 13 *Id.* 357. *Supra*, 105.

^(g) Mutual associations may create a capital stock. Section 185.

official seal of said board and the affidavit of the secretary or acting secretary of such corporation that the said certificate is made by the authority of the board of directors or managers of such corporation, as expressed by a two-thirds vote of the members present at a regular or special meeting of said board called for that purpose; *provided*, such removal is not outside of this state.(h)

126. Defective certificate of incorporation may be cured by an amended certificate.

[An act for the relief of corporations organized under general laws. Approved March 31st, 1875. P. L., p. 45.]

SEC. 1. Whenever the original certificate of incorporation, filed by any association under any general act for the formation of incorporated companies, is or shall be defective by reason of the omission of any matter required by law to be therein stated, or by reason of defective proof or acknowledgment, or by reason of the same not having been filed in all the offices required by law, the incorporators or directors of such association are hereby authorized to make and file an amended certificate in conformity with the law under which such association was or shall have been organized, and upon such filing and upon due recording of such amended certificate, if required by law, said association shall be deemed and taken to be, and to have been a corporation from the time of filing such original certificate.

127. Pending suits not affected.

SEC. 2. Nothing herein shall affect any suit or proceeding, at the time of filing such amended certificate, pending against said corporation, or impair any rights of action accrued against the stockholders, incorporators or directors.

128. When election has not been held on the day fixed by charter or by-laws, special meeting may be called for the purpose.

[A further supplement to an act entitled "An act to prevent fraudulent elections by incorporated companies, and to facilitate proceedings against them," approved April 15th, 1866. Approved March 17th, 1874. P. L., p. 37.]

SEC. 1. If, at any time hereafter, the election for directors of any incorporated company of this state, shall not be duly held on the day designated by the act incorporating such company, or on the day designated by the by-laws of such company, it shall be the duty of the secretary of such corporation, on the written request of five stockholders, and in mutual insurance companies on like request of five policy-holders, to call a meeting of the

(h) For other provisions respecting offices, see sections 11, 15, 49, 50.

stockholders or policy-holders of such company, for the purpose of electing directors; said call to be made in the same manner as required by the charter or by-laws of such company for the election of directors thereof. (See section 46.)

129. SEC. 2. Nothing in this act shall apply to any incorporated literary or religious society.

130. Corporations as executors or trustees.

[An act to enable certain corporations to qualify as trustees, executors, administrators or guardians. Approved April 21st, 1876. P. L., p. 272.]

SEC. 1. In all cases where any corporation in this state authorized by its charter to act as trustees, executors, administrators or guardians, shall be appointed executor, administrator or trustee of any estate or guardian of any infant, it shall and may be lawful for the president, cashier or treasurer of such corporation to take and subscribe for such corporation any and all oaths or affirmations required to be taken or subscribed by such executor, administrator, trustee or guardian.

131. Forfeiture of charter in case of insolvency.

[Supplement, approved March 8th, 1877. P. L., p. 74.]

SEC. 3. The charter of no corporation shall be forfeited and void, notwithstanding the injunction and appointment mentioned in section eighty-three of the act to which this is a supplement shall have continued for four months; *provided*, said corporation shall have been heretofore managed and doing business under an order of the court of chancery.

132. Purchasers of property and franchises of turnpike, bridge, plank road, gas and water companies, under decree of court, may reorganize company.

[An act approved February 17th, 1881. P. L. 1881, p. 33.]

[This act, containing three sections, provides that the purchasers of such property, above mentioned, shall be a body corporate and politic, vested with all the rights, powers, immunities, privileges and franchises of the corporation, and may organize the new corporation by the election of officers, and may issue stock and bonds.]

133. Not more than one director of manufacturing company need reside in this state.

[Act approved March 16th, 1881. P. L. 1881, p. 122.]

It shall not be necessary for more than one of the directors of any cotton, wooden, chemical or other manufacturing company organized under any law of this state, to be an actual inhabitant and resident of this state; *provided*, that every such company having only one of its directors an actual inhabitant and resident of this state, shall, in addition to the matters required by the first section of this act entitled "A supplement to act entitled 'An act concerning corporations,'" approved April seventh, one thousand eight hundred and seventy-five, which supplement was approved

March eighth, one thousand eight hundred and seventy-seven, also at the same time and manner as therein provided, designate and file in the office of the secretary of state of this state the name and place of abode of such resident director. (i)

134. Service of process on foreign corporations.

[Supplement, approved March 25th, 1881. P. L. 1881, p. 298.]

[This supplement to the general act concerning corporations provides that in proceedings in the courts of this state against any foreign corporation, in any matter requiring the use of any prerogative writ, such writ may be served upon the president, vice-president, or other head officer, or upon a director thereof, either personally or by leaving a copy at the dwelling-house, etc. In case of a refusal by such corporation to make a return to such writ or to obey the command of a writ issued upon a judgment or decree, the writs may be enforced by attachment of the company's property.]

135. Capital stock may be increased to pay maturing bonds.

["An act concerning corporations," approved March 2d, 1882. P. L., p. 39.]

SEC. 1. In all cases where the bonds of any corporation created by or organized under any act of the legislature of this state, have been heretofore issued, and which bonds are due or about to become due, or may be paid by such corporation at its option, it shall be lawful for the board of directors of such corporation to increase its capital stock in order to provide means for the payment of such bonds, and for that purpose to issue and sell the shares of such increase of capital stock for cash only, and in such manner as they deem best, at a price not below the par value of such shares; but no greater number of shares shall be issued or sold than shall be sufficient to raise an amount sufficient for the payment of the principal sums secured by the said bonds and the interest accrued thereon; and certificates of stock shall be issued to the purchasers of such additional shares, upon payment in cash of the purchase price thereof; and the holders of the said shares of the increased capital stock hereby authorized, shall possess and exercise the same rights and privileges in all respects as are possessed and exercised by the holders of the other shares of the capital stock of said corporation (other than the preferred stock thereof); and the proceeds of the sale of the shares representing such increase of capital stock shall be applied to the payment of such outstanding bonds as aforesaid, and to no other purpose whatever.

SEC. 2. If the capital stock of any corporation shall be increased, as is authorized by the preceding section of this act, it shall be the duty of its president and secretary, within thirty days thereafter, to make a certificate under their respective oaths or affirmations,

(i) See sections 108, 112 and 218.

setting forth what bonds of such corporation have been paid by the proceeds of increased capital stock, and the number of shares of the increased capital stock thereof that have been issued for that purpose, and to cause such certificate to be filed and recorded in the office of the secretary of state of this state.

136. Extension of corporate existence does not extend special exemptions from taxation.

[Supplement to the supplement of April 21st, 1876, *supra*, 109. Approved March 9th, 1882. P. L., p. 76.]

SEC. 1. Nothing contained in the act to which this is a supplement shall be construed as continuing in force and operation any special provision relating to taxation, or exemption therefrom, in the charter of any corporation whose corporate existence may have been or hereafter shall be extended in conformity with the terms of said act; but each corporation whose corporate existence may have been or shall be extended as authorized thereby, shall be assessed for taxes in accordance with the provisions of the general law of this state relating to the taxation of corporations.

SEC. 2. The provisions of the act to which this is a supplement shall not apply to any turnpike or toll company created under and by virtue of any special law of this state.

SEC. 3. All acts or parts thereof, general or special, inconsistent herewith are hereby repealed, and this act shall be a public act, and go into effect immediately.

137. Foreign corporations may hold land in this state.

[Supplement of March 17th, 1882. P. L. 1882, p. 137. See, also, sections 1, 99, 103, 150.]

SEC. 1. It shall be lawful for any corporation incorporated, created, registered or chartered by any foreign state, kingdom or government, to hold, mortgage, lease and convey such real estate in this state as may be necessary for the purpose of carrying on the business of such corporation in this state, or such real estate as it may acquire by way of mortgage or otherwise, in the payment of debts due such corporation; *provided*, such state, kingdom or government under whose laws such corporation was created, shall not be at the time of such purchase at war with the United States.

138. Company incorporated by special act may decrease its capital stock.

[Supplement of March 17th, 1882, to supplement of February 21st, 1878.]
[This supplement is incorporated in the supplement of February 21st, 1878, *supra*, 117.]

139. Insolvent manufacturing company may issue bonds and stock.

[“An act for the relief of insolvent corporations.” Approved March 23d, 1882. P. L. 1882, p. 167.]

SEC. 1. In any case where any company, organized under any

general or special act of the legislature of this state, for manufacturing purposes, has heretofore become, or is, or may become insolvent, it shall be lawful for the directors of the said company, in the name of the company, the consent of two-thirds of the stockholders in interest or their legal representatives having been first obtained, to issue bonds, or additional stock, or both, in full or part payment or settlement of any or all claims against such company, with the consent of the claimants, and subject to the approval of the chancellor in case a receiver has been appointed; in any case where there has been no election for directors after the insolvency became known to the stockholders, or after a receiver has been appointed it shall be necessary to obtain the assent of two-thirds of the stockholders to the issue of such bonds or stock, and in all cases where stock is issued the total amount thereof shall not exceed the amount of the claims against the company for which stock is taken, and the amount so issued, together with the capital stock already authorized, although the same may not have been fully issued, shall be taken and considered to be the limit of the capital stock of the company, and a statement shall be filed with the secretary of state, showing the whole amount of capital stock so authorized and issued, if bonds are issued they may be made convertible into stock, at the option of the holders, if the directors deem it for the best interest of the company, and in that case the amount of such bonds must be included in the statement filed with the secretary of state, showing the amount of capital stock authorized, and any stock issued under the provisions of this act may be issued in whole or in part as preferred stock, bearing interest not exceeding six per centum per annum, with or without further participation in the earnings of the company; if a receiver has been appointed it shall be lawful for the chancellor to discharge or relieve him from further service on being shown that the directors have made provision for all of the claims against the company, according to this act or otherwise, excepting only such claims as were previously secured by mortgage, and to permit said company by its directors and officers, to resume and conduct its business and exercise all the franchises existing at the time of the insolvency.

140. New certificates may be issued to stockholders whose certificates are lost.

["An act for the relief of the holders of stock of any corporation of this state whose certificates of stock have been lost or destroyed." Approved March 28th, 1882. P. L. 1882, p. 205.]

SEC. 1. Every corporation of this state shall have the power to issue a new certificate or certificates of stock in the place of any certificate or certificates theretofore issued by it, but which, it is alleged, have been lost or destroyed, and the directors authorizing such issue of a new certificate or certificates may, in their discretion, require the owner of such lost or destroyed certificate, or his legal representatives, to give the corporation a bond, in such sum as they may direct, as surety against any claim that may be made against such corporation; but said directors may direct such issue of a new certificate or certificates without requiring any bond as security, when, in their judgment, it is proper for the corporation so to do; when application is to be made under section two of this act, the corporation shall require a bond to be given equal to the market value of the stock lost or destroyed.

141. Discharge of corporations from liability for issuing new certificates.

SEC. 2. When any corporation shall have issued a new certificate or certificates, as authorized in section one of this act, to the owner of lost or destroyed certificates representing stock exceeding the par value of twenty thousand dollars, such corporation may apply to the chancellor, or any justice of the supreme court, for an order requiring all persons in interest to show cause, at a time and place to be named therein, why the corporation should not be discharged of and from all liability, to any and all persons, by reason of the issuing of such new certificate or certificates of stock as aforesaid, and why all persons claiming any title to or interest in the old certificate or certificates so lost or destroyed as aforesaid, should not be barred from all right of action thereunder; that upon the presentation of such application, said chancellor, or any justice of the supreme court to whom the same shall be presented, shall make an order directing all persons in interest to show cause as aforesaid; the application shall be by petition, duly verified by one of the officers of the corporation, and shall state the name of the corporation; the number and date of the certificates, if known; the number of shares of stock named therein; to whom issued; the name of the owner thereof at the time the same was lost or destroyed and of the present owner as far as known; the chancellor or justice of the supreme court, in making the order to show cause, shall direct that service of said order be made either within or without the state, upon the person named in the petition as the owner of the stock so lost or

destroyed, and shall also direct a copy of said order to be served upon all others in interest, by publication thereof in one or more newspapers in this state, or elsewhere, and said order shall require said alleged owner and all other persons in interest to appear and show cause, as required by said order; and such publication shall be once a week for not less than two weeks or more than four weeks; the order to show cause shall be returnable not more than six weeks from the time of the presentation thereof to such chancellor or justice, and shall require all persons claiming any interest in said stock to appear on the return day of said order and show cause as aforesaid; and on the return day of said order, and upon proof of the service and publication as aforesaid, said chancellor or said justice shall proceed in a summary manner and in such mode as he may deem advisable, to inquire into the truth of the facts stated in the petition, and shall hear such proof and allegations as may be offered by or in behalf of the petitioner relative to the subject-matter of said application; and if, upon such inquiry, the said chancellor or justice shall be satisfied that the person to whom the new certificate of stock was issued by such corporation was the lawful owner at the time of said loss or destruction of said certificates of the capital stock of said corporation for which said new certificate was issued by said corporation, and that the new certificate is for the number of shares so lost or destroyed as aforesaid, and that the old certificate or certificates cannot, after due diligence, be found, and if no person shall appear on such return day claiming to be the owner of or interested in the old certificate so lost or destroyed other than the person to whom the new certificate or certificates were so issued as aforesaid, then said chancellor or justice may, in their discretion, make an order adjudicating that the holder of the new certificate or certificates was the owner of the old certificates so lost or destroyed, and decreeing that said old certificates shall be of no further validity or effect whatever and shall be absolutely void, that no person shall thereafter have or maintain any right of action thereunder, in any way thereafter, providing in such order for the protection of the rights of infants or persons under legal disabilities (if any such appear by the testimony to exist); and such order so made shall be filed in the office of the secretary of state; and upon such filing, such order shall be notice to all persons, and all persons shall be bound thereby, but any *bona fide* holder of the stock represented by such lost or destroyed certifi-

cate or certificates may at any time within sixty days after the date of such filing in the office of the secretary of state, apply to have said order vacated, and thereupon such proceedings shall be had by said chancellor or justice for a rehearing as they shall direct; such order shall not affect the rights of any *bona fide* holder of stock who has acquired the same after its loss by the rightful owner thereof and prior to the expiration of sixty days from the date of the filing of such order as aforesaid in the office of the secretary of state.

142. Proceedings to compel corporation to give new certificate of stock.

SEC. 3. Whenever any corporation, incorporated under the laws of this state, shall have refused to issue a new certificate of stock in the place of one theretofore issued by it, but which, it is alleged, has been lost or destroyed, the owner of such lost or destroyed certificate, or his legal representatives, may apply to the chancellor or any justice of the supreme court for an order requiring such corporation to show cause why it should not be required to issue a new certificate of stock in the place of the one so lost or destroyed; such application shall be by petition, duly verified by the owner, or his legal representatives, in which shall be stated the name of the corporation, the number and date of the certificate, if known; the number of shares of stock named therein and to whom issued, and as particular a statement of the circumstances attending such loss or destruction as such petitioner shall be able to give; upon presentation of such petition the said chancellor or justice shall make an order requiring the said corporation to show cause, at a time and place therein mentioned, why it should not be required to issue a new certificate of stock in the place of the one described in the said petition; a copy of the said petition and of the said order shall be served upon the president or other head of such corporation, or upon the cashier, or secretary or treasurer thereof, personally, at least ten days before the time designated in said order for showing cause.

SEC. 4. At the time and place specified in said order (provided for in section three), and upon proof of the due service thereof, the said chancellor or justice shall proceed in a summary manner and in such mode as he may deem advisable, to inquire into the truth of the facts stated in the said petition, and shall hear such proofs and allegations as may be offered by or in behalf of the petitioner, or by or in behalf of the said corporation, relative to

the subject-matter of such inquiry, and if, upon such inquiry, the chancellor or justice shall be satisfied that such petitioner is the lawful owner of the number of shares of the capital stock, or any part thereof, described in the said petition, and that the certificate therefor has been lost or destroyed, and cannot, after due diligence, be found, and no sufficient cause has been assigned why a new certificate should not be issued in place thereof, said chancellor or justice shall make an order requiring the said corporation, within such time as shall be therein designated, to issue and deliver to such petitioner a new certificate for the number of shares of the capital stock of the said corporation which shall be specified in such order as owned by such petitioner, and the certificate for which shall have been lost or destroyed; in making such order the said chancellor or justice shall direct that the said petitioner deposit such security, or file such bond, in such form and with such sureties as to the chancellor or justice shall appear sufficient to indemnify any person, other than the petitioner, who shall thereafter appear to be the lawful owner of such certificate stated to be lost or stolen, and to indemnify the said corporation against all loss or damage which it shall sustain by reason of claims made against it by other persons upon account of such lost, stolen or destroyed certificate; and the chancellor or justice may also direct the publication of such notice, either preceding or succeeding the making of such final order, as he shall deem proper; any person or persons who shall thereafter claim any rights under such certificate, so alleged to have been lost or destroyed, shall have recourse to the said indemnity, and the said corporation shall be discharged of and from all liability to such person or persons by reason of compliance of the order aforesaid; obedience to such order may be enforced by said chancellor or justice by attachment against the officer or officers of such corporation, upon proof of his or their refusal to comply with the same.

143. Assessment of stock of mining company may be made by directors, if certificate of organization so provide.

[Supplement, approved March 31st, 1882. P. L. 1882, p. 262.]

SEC. 1. Whenever the certificate provided for in section ten of the act to which this is a supplement shall contain a provision (which is hereby authorized to be inserted therein in reference to any company conducting mining operations as a part of its business, that may be formed under the act to which this is a supple-

ment), that the board of directors shall have full power to levy assessments on general stockholders until the stock of such stockholders shall be fully paid up; that then and in every such case no action of the stockholders of such company shall be necessary in order to impose, levy and collect such assessments. (*j*)

144. Dividends may be guaranteed on stock issued for property purchased.

[This section is given as amended by the supplement of May 9th, 1899. P. L., p. 415. For other provisions respecting dividends, see sections 7, 25, 53, 55, 106.]

SEC. 2. Any stock issued for property purchased (*k*) under section fifty-five of the act to which this is a supplement, may, by a vote of the board of directors, whenever the certificate of incorporation shall authorize the exercise of such a power, contain a provision guaranteeing a minimum yearly dividend, payable yearly, half-yearly or quarter-yearly, but only out of the actual profits of the business of the company; *provided*, that such provision shall not contain a guarantee of any larger dividend than is authorized to be paid on preferred stock of such company; such guaranteed dividend to be paid before any dividend paid on the general stock of said company not containing any such provision; the holder of such guaranteed stock shall be entitled to participate equally with the other holders of general stock in the profits arising out of the business of the company, and receive full dividends whenever the annual dividend, or the sum of dividends in any year, upon the entire capital stock of said company, shall exceed the dividend named in such guarantee; the holders of such guaranteed stock shall have all the rights of holders of the general stock of such company, including the right to vote and receive dividends thereon, and such guaranteed stock may be converted into an equal amount of the preferred stock of the company issuing the same, carrying no larger dividend; and the directors of any company, for the purpose of retiring the guaranteed stock of such company, may issue and exchange therefor an equal amount of its preferred stock, carrying no larger dividend than that guaranteed; *provided*, that the amount of preferred stock so issued shall, at no time, exceed two-thirds of the entire capital of the company issuing the same; and *provided, further*, that the preferred stock so issued shall be entitled to dividends on a par with preferred stock before issued only with the assent of the holders of pre-

(*j*) For other provisions relative to stock issued for property purchased, *vide* 55, 219.

(*k*) See section 25 and notes.

ferred stock then outstanding, or in case it shall have been so provided in the original certificate of incorporation, or in the certificates for preferred stock outstanding.

145. Fee to be paid to state on filing certificate of organization.

[Supplement, approved March 5th, 1883. P. L. 1883, p. 62.]

Upon filing with the secretary of state of this state any certificate of incorporation or organization of any company incorporated under the provisions of the act to which this act is a supplement, there shall be paid by the corporators named in such certificate of incorporation or organization, to the secretary of this state, for the use of the state, the sum of twenty-five dollars for all corporations having an authorized capital not exceeding one hundred thousand dollars, and the sum of one-fifth of one dollar per thousand upon the largest amount of capital authorized by its certificate of incorporation or organization by any corporation incorporated under the provisions of the act to which this act is a supplement, having an authorized capital exceeding one hundred thousand dollars, shall be paid by the corporators of any such incorporation, to the secretary of this state, for the use of the state.

146. Fee upon filing amended certificate.

SEC. 2. Upon the filing of an amended certificate of incorporation or organization, or certificate consolidating companies into one corporation incorporated under the provisions of the act to which this act is a supplement, there shall be paid to the secretary of this state, for the use of the state, the sum of twenty dollars. (See section 195.)

147. Fee upon filing certificate of increase.

SEC. 3. Upon the filing of a certificate increasing the capital stock of any incorporation incorporated under the provisions of the act to which this act is a supplement, there shall be paid the sum of twenty dollars; *provided*, such increased capital stock shall not exceed one hundred thousand dollars, and in case the increased capital stock shall exceed one hundred thousand dollars, then the sum of one-fifth of one dollar per thousand on such excess shall be paid to the secretary of state of this state, for the use of the state.(1)

148. Certificate not to be filed until fee paid.

SEC. 4. It shall not be lawful for the secretary of state to file in his office any certificate of incorporation or organization, made in

(1) For provisions relative to increase, see section 24 and notes.

pursuance of the act to which this act is a supplement, until the requirements of this act are complied with.

149. Suit against receiver not to abate by his death.

[A supplement to an act entitled "An act to prevent in certain cases the abatement of suits and reversal of judgments," approved March 27th, 1874 (Revision). Approved January 31st, 1883. *P. L.* 1883, p. 18.]

SEC. 1. No action heretofore or hereafter brought in any court of this state against any receiver of any corporation within the same, shall be held, adjudged or decreed to abate or to have abated, by reason of the death of such receiver; but upon suggestion of the facts on the record, such suit shall be continued against the new receiver for such corporation appointed by the chancellor, or against such corporation in case no new receiver shall be or shall have been appointed, as if such death had not happened. (See sections 65, 92.)

150. Foreign benevolent corporations may hold land in this state.

[Supplement, approved March 23d, 1883. *P. L.* 1883, p. 220.]

SEC. 1. It shall be lawful for foreign corporations, created and organized for charitable or benevolent purposes, to hold, mortgage, lease and convey such real estate in this state as may be devised or conveyed to them for the purposes of their creation, anything in the laws of this state to the contrary notwithstanding. (See sections 1, 99, 103, 137.)

151. Consolidation of store-house, pier, dock and stock-yard corporations.

[“An act relating to the consolidation of corporations authorized to establish store-houses, piers or docks, or to maintain yards and buildings for the keeping and accommodation of live-stock.” Approved March 23d, 1883. *P. L.* 1883, p. 242.]

[This act, containing six sections, provides “that it shall be lawful for any corporation or corporations of this state, created to establish ferries, store-houses, piers or docks, or to maintain yards and buildings for the keeping and accommodation of live-stock, to consolidate and merge their corporate rights, franchises, powers and privileges into any one of such corporations so authorized as aforesaid, so that by virtue of this act such corporations shall be consolidated and merged, and so that all the property, rights, franchises and privileges, by law vested in such corporations so merged, shall be transferred to and vested in the corporation into which such consolidation and merger shall be made.” The method of consolidation is set forth, authority is given for issuing bonds secured by mortgages on the property and franchises of the companies, and provision is made for taxing the property of such companies in the same manner as that of individuals.]

152. Societies for relief of clergymen may increase directors and change time of meetings.

[A supplement passed February 21st, 1884 (*P. L.*, p. 26), provides that any incorporated society having for its object the relief of clergymen, &c., may increase the number of its trustees and change the time of holding its annual meeting.]

153. Cashiers of banking corporations to give bonds.

[A supplement passed March 5th, 1884 (*P. L.*, p. 43), provides that the directors of every banking corporation shall require their cashiers to give bond in the sum of at least \$20,000 for the faithful performance of duty, and annually pass upon the sufficiency of such bond, and if insufficient, to require a new bond; in default whereof the directors shall be jointly and severally liable for the defalcations of the cashier to the extent of \$20,000.]

154. Electric light companies may use highways.

[Supplement, approved May 10th, 1884. P. L., p. 331.]

SEC. 1. Any company organized by virtue of the act to which this is a supplement, for the purpose of constructing, maintaining and operating works for the supply and distribution of electricity for electric lights, heat or power, shall have full power to use the public roads or highways, streets, avenues and alleys in this state for the purpose of erecting posts or poles on the same to sustain the necessary wires and fixtures upon first obtaining the consent in writing of the owners of the soil; *provided, however*, no posts or poles shall be erected in any street of any incorporated city or town without first obtaining from the incorporated city or town a designation of the street in which the same shall be placed and the manner of placing the same, and that the same shall be so located as in no way to interfere with the safety or convenience of persons traveling on or over the said roads and highways, and that the public streets in any of the incorporated cities and towns of this state shall be subject to such regulations as may be first imposed by the corporate authorities of said cities and towns.

155. Wires may be laid under ground.

SEC. 2. Any such companies be and they (are) hereby authorized and empowered to lay pipes or conduits and to lay wires therein beneath the public roads, highways, streets, avenues and alleys as they may deem necessary; *provided*, that said pipes or conduits shall be laid at least two feet below the surface of the same and shall not in anywise unnecessarily obstruct or interfere with public travel or damage public or private property, and shall not be laid nearer than three feet, except as is hereinafter excepted, to any water or gas main; but no public street shall be opened for the purpose of laying any such pipes, conduits or wires without the consent of the board of aldermen or common council of such city; *and provided*, that such use of the public streets in any of the cities and towns of this state shall be subject to such regulations and restrictions as may be first imposed by the corporate authorities of such cities or towns.

156. Wires must not be laid near water and gas pipes.

SEC. 3. Any wires for conveying electricity or the conduits containing said wires, shall be laid at the greatest practicable distance from the outside of any water or gas pipe now laid down, and that such distance shall not be less than three feet, except in case where it shall be necessary that the said wires or conduits shall cross or intersect any such water or gas pipe.

157. Franchise tax to be laid upon telegraph and certain other companies.

[“An act to provide for the imposition of state taxes upon certain corporations and for the collection thereof.” Approved April 18th, 1884. P. L., p. 232.]

SEC. 1. Every telegraph, telephone, cable or electric light company, every express company, not owned by a railroad company and otherwise taxed, every gas company, palace or parlor or sleeping car company, every oil or pipe-line company, and every fire, life, marine or accident insurance company, doing business in this state, except mutual fire insurance companies which do not issue policies on the stock plan, shall pay an annual tax, for the use of the state, by way of a license for its corporate franchise, as hereinafter mentioned; *provided, however*, that no company or society shall be construed to be a life insurance company doing business in this state within the purview of this act, which by its act or certificate of incorporation, shall have for its object the assistance of sick, needy or disabled members, the defraying of funeral expenses of deceased members, and to provide for the wants of the widows and families of members after death.

158. Annual reports by certain companies to state board of assessors.

SEC. 2. On or before the first Tuesday of May next, and annually thereafter, it shall be the duty of the president, treasurer or other proper officer of every corporation of the character specified in the preceding section, to make report to the state board of assessors, appointed and to be appointed under the act entitled “An act for the taxation of railroad and canal property,” stating specifically the following particulars, namely: Each telegraph, telephone, cable and express company, not owned by a railroad company and otherwise taxed, shall state the gross amount of its receipts from business done in this state for the year preceding the first day of January prior to the making of such report; each electric light company shall state the gross amount of its receipts for light or power supplied within this state for the year preceding the first day of February prior to the making of such report; each gas company shall state the gross amount of its receipts for business done in this state during the same time, and the amount of dividends earned or declared for the same period; each parlor, palace or sleeping car company shall state the gross amount of its receipts for fare or tolls for transportation of passengers within this state during the same time; each oil or pipe-line company engaged in the transportation of oil or crude petroleum shall state

the gross amount of its receipts from the transportation of oil or petroleum through its pipes or in and by its tanks or cars in this state during the same time; each fire, marine or accident insurance company shall state the total amount of premiums received by it for insurance upon the lives of persons resident or property located within this state, during the same time.

159. Penalties for false statement, or neglect to make statement.

SEC. 3. If any officer of any company required by this act to make a return as aforesaid, shall, in such return, make a false statement, he shall be deemed guilty of perjury; if any such company shall neglect or refuse to make such return within the time limited as aforesaid, the state board of assessors shall ascertain and fix the amount of such receipts in such manner as may be deemed by them most practicable, and the amount fixed by them shall stand as the basis of taxation of such company under this act.

160. Amount of franchise tax to be paid by certain companies.

[This section is given as amended by supplement of March 16th, 1891. *P. L.*, p. 150.]

Each telegraph, telephone, cable and express company shall pay to the state a tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained; that each gas company and electric light company shall pay to the state a tax at the rate of one-half of one per centum upon the gross amount of its receipts so returned or ascertained, and five per centum upon the dividends of said company in excess of four per centum so earned or declared; that each oil or pipe-line company shall pay to the state a tax at the rate of eight-tenths of one per centum upon the gross amount of its receipts so returned or ascertained; (m) that each insurance company other than life shall pay to the state a tax at the rate of one per centum upon the gross amount of its premiums so returned or ascertained; that each life insurance company incorporated under the laws of this state shall pay to the state an annual franchise tax of one per centum upon the amount of its surplus, on the thirty-first day of December next preceding the time of such payment as fixed in section five, as the same shall be ascertained by the commissioner of insurance of this state, according to the actuaries' table of mortality, and four per centum

(m) Foreign corporations doing business in this state are subject to the tax. *Pipe Line Co. v. Berry*, 23 *Vr.* 308.

interest; that each life insurance company not incorporated under the laws of this state, or of any other state or territory of the United States, but doing business in this state, shall pay to the state an annual tax of two per centum on the amount of premiums collected during the year ending December thirty-first as aforesaid, from residents of this state, except on the amount of premiums collected from industrial insurance, on which amount each company shall pay to the state an annual tax of one per centum per annum, deducting from said premiums the amount of dividends actually allowed in rebate of the same, and the amount paid during said year to residents of this state for claims under matured policies; the secretary of state, acting as the commissioner of insurance, shall ascertain and report to the state board of assessors all the facts necessary to enable the board to ascertain and fix the amount of tax to be paid by life insurance companies under this act; that each parlor, palace or sleeping car company shall pay to the state treasurer a tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained; if any oil or pipe line company has part of its transportation line in this state and part thereof in another state or states, such company shall return a statement of its gross receipts for transportation of oil or petroleum over its whole line, together with a statement of its whole length of line and the length of its line in this state; such company shall pay tax to the state, at the aforesaid rate, upon such proportion of its said gross receipts as the length of its line in this state bears to the whole length of its line; that all other corporations incorporated under the laws of this state, and not hereinbefore provided for, shall pay a yearly tax⁽ⁿ⁾ of one-tenth of one per centum on all amounts of capital stock issued and outstanding, up to and including the sum of three million dollars; on all sums of capital stock issued and outstanding over three million dollars, and not exceeding five million dollars, a yearly tax of one-twentieth of one per centum, and the further sum of fifty dollars per annum per one million dollars, or any part thereof, on all amounts of capital stock issued and outstanding in excess of five million dollars; *provided*, that this act shall not

(n) This tax is a license or franchise tax. It is not a tax on property, and not within the equality clause (Art. IV., § 7, ¶ 12), of the constitution. *Standard Underground Cable Co. v. Attorney General*, 1 *Dick. Ch. Rep.* 270. A manufacturing company, which has an office and procures materials here, but carries on the manufacture of its special product out of this state, is taxable. *Ibid.*

apply to railway, canal or banking corporations, or to savings banks, cemeteries or religious corporations, or to purely charitable or educational associations, or manufacturing(o) or mining corporations, at least fifty per centum of whose capital stock issued and outstanding is invested in mining or manufacturing carried on within this state; if any manufacturing or mining company carrying on business in this state shall have less than fifty per centum of its capital stock issued and outstanding invested in business carried on within this state, such company shall pay the tax herein provided for companies not carrying on business in this state, but shall be entitled, in the computation of such tax, to a deduction from the amount of its capital stock of the assessed value of its real and personal estate so used in manufacturing or mining.

161. Proceedings of state board of assessors.

Sec. 5. The state board of assessors shall certify and report to the comptroller of the state, on or before the first Monday of June in each year, a statement of the amount of gross receipts as returned by each company to, or ascertained by the said board, and the amount of tax due thereon respectively, at the rate fixed by this act; such tax shall thereupon become due and payable, and it shall be the duty of the state treasurer to receive the same; if the taxes of any company remain unpaid on the first day of July, after the same become due, they shall thenceforth bear interest at the rate of one per centum for each month until paid; the state board of assessors shall have power to require of any corporation subject to tax under this act, such information or reports touching the affairs of such company, as may be necessary to carry out the provisions of this act, and may require the production of abstracts of the books of such companies; and may swear and examine witnesses in relation thereto; the comptroller shall receive as compensation for his services under this act and under the act entitled "An act for the taxation of railroad and canal property," approved April tenth, eighteen hundred and eighty-four, the sum of five hundred dollars annually.

(o) The question is in what business is the capital of the company invested, and not what are the objects expressed in its certificate of incorporation. The printing and publishing of a newspaper is not manufacturing, but the business of book-printing, engraving, electrotyping and lithographing is manufacturing within the meaning of the act. *Evening Journal Association v. State Board of Assessors*, 18 Vr. 36; *Printing Co. v. Assessors*, 22 Id. 75; *Am. Glucose Co. v. New Jersey*, 16 Stew. Eq. 280; *New Jersey v. Soc. for Estab. Useful Manf.*, 16 Id. 410; *Standard, &c., Co. v. Attorney-General*, 1 Dick. Ch. Rep. 270.

162. The tax is a debt, for which an action may be brought.

SEC. 6. Such tax, when determined, shall be a debt due from such company to the state, for which an action at law may be maintained after the same shall have been in arrears for the period of one month; such tax shall also be a preferred debt in case of insolvency.

163. Injunction against company neglecting to pay tax.

SEC. 7. In addition to other remedies for the collection of such tax, it shall be lawful for the attorney-general, either of his own motion, or upon the request of the state comptroller, whenever any tax due under this act, from any company, shall have remained in arrears for a period of three months after the same shall have become payable, to apply to the court of chancery, by petition in the name of the state, on five days' notice to such corporation, which notice may be served in such manner as the chancellor may direct, for an injunction(*p*) to restrain such corporation from the exercise of any franchise, or the transaction of any business within this state until the payment of such tax and interest due thereon, and the costs of such application, to be fixed by the chancellor; the said court is hereby authorized to grant such injunction, if a proper case appears, and upon the granting and service of such injunction, it shall not be lawful for such company thereafter to exercise any franchise or transact any business in this state until such injunction be dissolved.(*q*)

164. Act of April 18th, 1884, does not apply to foreign insurance companies.

SEC. 8. This act shall not apply to or in any manner affect the tax upon the premiums obtained in this state by foreign fire insurance companies and their agents, which tax shall be in lieu of the tax herein provided and shall be collected and distributed as is specially provided by law in relation thereto.

165. Insolvent manufacturing company may compromise with creditors.

[An act to provide for agreements between creditors and insolvent companies. Approved May 14th, 1884. P. L., p. 342.]

SEC. 1. Whenever any company organized under any law of

(*p*) A corporation which has manufactured nothing because prevented from using its patents will not be enjoined for non-payment of taxes. Such facts do not present "a proper case" under the act. *Faure Elec. Light Co.'s Case*, 16 *Stew. Eq.* 411. So with a corporation which has ceased to do any business except to preserve its organization. *Re New York File and Sharpening Co.*, *Id.* 413.

(*q*) For provisions concerning forfeiture of charters of companies neglecting to pay taxes, *vide* sections 210-217.

this state, and engaged in manufacturing within this state, shall have been or shall be declared to be insolvent, and a receiver shall have been or shall be appointed, and no settlement shall have been made for three years thereafter, it shall be lawful for such company to enter into an agreement with its creditors for a settlement, with the consent and approval of the chancellor, and after such agreement shall have been signed by not less than two-thirds in amount of the holders of the valid claims against such company, said agreement shall be binding upon all of the creditors of such company the same as if they had all signed, to the end that the receiver may be discharged by the chancellor, and the effects and property of the company restored to its own possession.

166. Discharge of claim of creditor not joining in compromise.

SEC. 2. Any creditor who shall refuse to sign such agreement may, upon notice given to such company within sixty days from the discharge of the receiver, apply to the chancellor for an assessment of the value of the claim of such creditor, and the chancellor may appoint three commissioners to determine the actual value of the property of such company while the same was in the hands of the receiver, and the proportionate value of the claim of such creditor, and the value or proportionate amount of such claim shall be paid by the company in discharge of the debt, in order that such claimant may receive the full proportion that would have been realized if a sale of the property had been ordered by the court to be made by the receiver.

167. Proceedings for settlement of claim of a creditor not joining in compromise.

SEC. 3. Either party may have a right to appeal from the decision of the commissioners, when made under the second section of this act, to the chancellor, who shall hear and determine the same, or at the request of either party, an issue may be framed for the trial of the questions submitted to said commissioners before the circuit court of any county of this state, and the chancellor may order that such further proceedings shall be had as may be in accordance with the practice of the court of chancery and the courts of law in the trial of feigned issues out of the court of chancery.

168. Certain land companies may become shareholders of railroad company.

[Supplement, passed February 17th, 1885. P. L. 1885, p. 84.]

SEC. 1. Any corporation of this state now existing or hereafter to be incorporated under the provisions of the act to which this is a supplement, having for its object the improvement and sale of and owning lands at or near any of the sea-side resorts of this state, and not located on the line or at the terminus of any railroads in this state, may, by a vote of the majority of the capital stock of such corporation, subscribe to the capital stock of and become a shareholder in any railroad company about to construct its line of railroad so as to extend to, through or over the lands owned by such corporation; *provided*, that such subscription shall not exceed one-fifth of the amount of the capital stock of such subscribing corporation.(r)

169. Corporations may decrease capital stock, and par value of shares.

[Supplement, passed March 25th, 1885. P. L. 1885, p. 140.]

SEC. 1. When any company incorporated under any general law of this state, or by special act of incorporation, is limited by its charter to a certain amount of capital stock, and the par value of the shares of such stock is fixed therein, such corporation shall have the power to decrease the amount of its capital stock and the par value of the shares of its capital stock on filing with the secretary of the state the assent, in writing, of stockholders representing two-thirds in value of existing capital stock and a certificate setting forth the amount of the capital stock as decreased, and the par value of the shares of such capital stock, and published for three weeks in a newspaper circulating in the county in which the place of business or principal office of any such company is located; and in default thereof the directors of the company shall be jointly and severally liable for all debts of the company contracted before the filing of the said certificate; and the certificate of the secretary of state that such assent and certificate have been filed in his office shall be taken and accepted as evidence of such decrease of capital stock and of the par value of the shares thereof in any court of this state; *provided*, that no such reduction of stock or the par value of the shares thereof shall be construed to effect any reduction of the taxes that may be required

(r) For other provisions relative to the holding by one company of stock in another, *vide* sections 189, 191, 219.

to be paid by the special acts respectively incorporating such companies. (See sections 33, 117, 120, 138.)

170. Safe deposit and trust companies may be formed.

[“An act for the incorporation of safe deposit and trust companies.” Approved April 20th, 1885. P. L. 1885, p. 270.]

SEC. 1. Any number of persons, not less than seven, may associate themselves together to establish a place or places of safe deposit and trust within the state, on the terms and conditions and subject to the liabilities prescribed in this act; the aggregate amount of the capital stock of any such company shall not be less than twenty-five thousand dollars nor more than two hundred thousand dollars, the whole amount of which as fixed shall be subscribed, and twenty-five per cent. thereof actually paid in in cash before such company shall commence business.

171. Certificate of organization.

SEC. 2. The persons so associating shall, under their hands and seals, make a certificate which shall specify the following matters:

- I. The name they have assumed to conduct their business;
- II. The amount of the capital stock as fixed by them, and the number and par value of the shares thereof;
- III. The names and residences of the shareholders and the number of shares held by each;
- IV. The place or places where said association will conduct its business.

Which certificate shall be acknowledged before a master in chancery of this state and recorded in the office of the secretary of state, and upon the same being so recorded, said association shall be a body corporate, and entitled to all the rights and privileges as such under the laws of this state.

172. Powers of safe deposit and trust companies.

SEC. 3. Any association created under this act shall have full power and lawful authority to take and receive on deposit, in trust and for safe keeping, stocks, United States bonds, jewelry, plate, money and other valuable property of every kind, upon terms to be prescribed by the by-laws of said association, and such association may collect coupons of or interest upon United States or other bonds, obligations or securities, when authorized so to do by parties depositing the same, and may make such special contracts as may be authorized by the by-laws for the taking of money or articles of property on deposit, and the payment or return thereof, and the interest thereon, and the rate or percentage of charges payable to or collectible by said association.

173. Seven directors of safe deposit and trust companies.

SEC. 4. The business of said association shall be conducted by a board of directors, of not less than seven in number, who shall be stockholders, and shall be elected annually at a stockholders' meeting, to be provided for in the by-laws of the association; said board of directors shall elect from their number a president, and shall provide for the election and appointment of such other officers and agents as may be necessary. (*Vide* sections 1, 17, 116, 184.)

174. Property of manufacturing companies to be taxed the same as that of an individual.

[Supplement, approved May 11th, 1886. *P. L.*, p. 345. *Vide* sections 106, 123, 157 to 164.]

SEC. 1. All real and personal estate of every manufacturing company or corporation shall be taxed the same as the real and personal estate of an individual.

175. When certificate of incorporation lost, copy may be filed.

[An act relative to the filing of certificates of incorporation. Passed April 6th, 1886. *P. L.*, p. 210.]

SEC. 1. In case any certificate of incorporation of any corporation organized under the act entitled "An act concerning corporations" [Revision], approved April seventh, one thousand eight hundred and seventy-five, and the acts amendatory thereof, shall have been heretofore or is hereafter lost after the same has been recorded with the clerk of the county where its principal place of business is located, and before it has been filed with the secretary of state, then in that case it shall be lawful for one or more stockholders of such corporation to cause a copy of the record of the original certificate of incorporation in said county clerk's office, certified by the clerk of the county in which it is recorded, to be filed with the secretary of state as of the date when it was recorded in said county clerk's office; and the secretary of state is hereby required to file the said certificate in his office as of the date when it was recorded with the clerk of the county in which the principal place of business of such corporation is situated, and to charge the same fees for such filing as was required by law at the time for which such certificate shall be filed.

176. Such corporation deemed to have been incorporated as of date of recording.

SEC. 2. For all intents and purposes any such corporation shall be deemed to have been incorporated as of the date when the original certificate of incorporation was recorded with the clerk

of the county in which said corporation's principal office or place of business is located.(s)

177. Corporation may extend its existence although period named in charter has expired.

[Supplement, approved April 6th, 1887. P. L., p. 137. See sections 11, 13, 109, 110, 111, 136, 187, 197, 198, 199.]

SEC. 1. Any corporation that has failed, during the period for its continuance named in its charter or certificate of incorporation, to file with the secretary of state a certificate extending its corporate existence, as permitted by statute, but has continued and still continues its organization and the transaction of business, may still file such certificate at any time within thirty days from the passage of this act, naming therein a period not exceeding fifty years.

178. On filing certificate existence revived and extended.

SEC. 2. Upon filing such certificate the period of the existence of such corporation shall be revived and extended as declared in such certificate as fully as if said period had been named in the original charter or certificate of organization of such corporation, but nothing herein contained shall be construed to interfere with the right of the State of New Jersey reserved by any law now or hereafter existing to acquire the property and franchises of any such corporation, or at any time to abolish or repeal, alter or amend the charter of the same, nor shall this act be construed to continue any irrevocable or other contract with the state contained in any charter, nor shall this act apply to any corporation against which *quo warranto* or other proceedings for dissolution are pending.

SEC. 3. This act shall take effect immediately.

179. Where incorporator is dead, another may be appointed.

[Supplement, approved April 1st, 1887. P. L. 1887, p. 112. As amended by supplement of April 4th, 1891. P. L., p. 321.]

SEC. 1. Where one or more of the persons heretofore or hereafter authorized to organize or incorporate any corporation heretofore or hereafter authorized to be created by or under any general or special act shall have died before such corporation shall have been completely organized pursuant to law, it shall and may be lawful for the survivor or a majority of the survivors to heretofore or hereafter designate in writing other persons who may take the place and act instead of those deceased in the organization, and any organization heretofore or hereafter affected by the aid of any

(s) See note to section 13.

such persons so heretofore or hereafter designated shall be as valid and effectual in law as if the organization had been effected by all the persons so authorized to organize or incorporate any corporation as aforesaid; *always provided*, that the provisions of this act shall not in any manner apply to, affect or impair the rights or liabilities of any parties in any suit or suits that may be pending at the time of its passage (see sections 206, 208).

SEC. 2. All acts and parts of acts, general, special, public, private, local or otherwise in any manner inconsistent with or repugnant to any of the provisions of this act be and the same hereby are repealed.

180. Amended certificate to cure defects in organization.

[Supplement, approved April 9th, 1887. P. L. 1887, p. 156. See sections 11, 126, 146.]

SEC. 1. Whenever the original certificate of incorporation filed by any association, under any general law of this state for the formation of incorporated companies is defective by reason of the omission of any matter required by law to be therein stated, or by reason of the object or objects therein expressed, in whole or part, being for a purpose or purposes not contemplated or recited in such general law in existence at the time of filing such original certificate, it shall be lawful for all the stockholders of such association, or the legal representatives of any deceased stockholders, to make a certificate under their hands and seals, acknowledged or proved as required for deeds of real estate, setting forth a copy of the original certificate, the time and place of recording and filing the same, and reciting the omission or defective objects of incorporation as expressed in said original certificate, and supplying such omission or the true object desired by such association for the purpose or purposes of such incorporation; the same to be of the nature or character authorized by the act to which this is a supplement, and the supplements thereto and acts amendatory thereof; which said association, upon causing said certificate to be recorded in the office of the clerk of the county where the original certificate was recorded, which said certificate the clerk is hereby authorized to record, and file in the office of the secretary of state, shall be deemed and taken to be and to have been a legal corporation for the objects stated in said certificate, to be recorded and filed from the time of filing such original certificate; *provided, however*, that this act shall not in any manner affect any proceedings pending in any court.

SEC. 2. It shall be lawful for the secretary of state to file such certificate in his office; *provided*, said association has paid or does

pay to him for the use of the state the sum of money required to be paid upon filing amended certificates of incorporation in his office.

Sec. 3. This act shall take effect immediately.

181. Corporation not to assume a name already in use.

[An act relative to the titles of corporations. Approved March 7th, 1888. P. L. 1888, p. 152. See sections 11, 114, 115.]

Sec. 1. No corporation to be organized under the laws of this state shall assume or use a name or title already in use by another corporation so organized, or so nearly similar to the name or title of any other corporation of this state as to lead to uncertainty and confusion.

Sec. 2. This act shall take effect immediately, and that all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

182. Steam heating and power companies may lay pipes in streets.

[Supplement, approved April 30th, 1887. P. L. 1887, p. 238.]

Sec. 1. Any company which shall be organized by virtue of the act to which this is a supplement, for the purpose of producing and distributing steam heat or power, shall have full authority to lay the necessary pipes and conduits beneath the public roads, highways, streets, avenues and alleys in this state; *provided, however*, that said pipes and conduits shall be laid at least two feet below the surface of the same, and shall not in any wise unnecessarily obstruct or interfere with public travel, or damage public or private property; *and provided, also*, that the consent of the board of aldermen, common council or other legislative body of any such cities, towns or townships wherein or through which it is contemplated to lay such pipes and conduits beneath such public roads, highways, streets, avenues or alleys, shall first and as a condition precedent be obtained before any of such public roads, highways, streets, avenues or alleys shall be disturbed, opened or dug up, such consent of such board to be by ordinance of such board duly adopted; that such use of public streets or highways in any of the cities, towns or townships of this state shall be subject to such regulations and restrictions as may be imposed by the common council, board of aldermen or other legislative body of such cities, towns or townships, and that the portions of the surfaces of the streets disturbed in laying the said pipes shall be immediately restored to their original condition, and that any pavements which are removed for the purpose of laying or repair-

ing the pipes shall be restored in as good condition as they were previous thereto, and so maintained for six months after the completion of the works, and in case of failure on the part of the owners of said pipes to so restore and maintain the same, the street commissioner or other officer having supervision of the streets may properly restore and maintain the same, and the cost thereof may be recovered by the city from the owners of said pipes in any court of competent jurisdiction.

183. Restrictions in laying steam pipes.

SEC. 2. Any pipes or conduits laid in any of the public roads, highways, streets, avenues and alleys to be used for conveying steam heat or power, shall be laid at a distance not less than three feet from the outside of any water or gas pipe already laid, except in cases where it shall be necessary that said pipes or conduits shall cross any such water or gas pipe, and then said pipes or conduits shall be at least twelve inches distant from the outside of any water or gas pipes already laid.

SEC. 3. This act shall take effect immediately.

184. Specially chartered corporations may decrease number of directors.

[Supplement, approved February 14th, 1888. P. L. 1888, p. 34. See section 1 (paragraph VI.), sections 17, 116, 173.]

SEC. 1. Any company or association incorporated under the laws of this state by special act of incorporation shall have the power to decrease the number of its directors by filing in the office of the secretary of state the assent in writing of stockholders representing two-thirds in value of the existing capital stock, and a certificate setting forth the number of directors as decreased, under the hands and seals of said stockholders, which certificate shall be proved or acknowledged and recorded, as required of deeds of real estate, in the office of the clerk of the county where the principal office or place of business of such company in this state shall be established, and after being so recorded shall be filed in the office of the secretary of state, and the certificate of the secretary of state that such assent and certificate have been filed in his office shall be taken and accepted as evidence of the decrease in the number of its directors, in any court of this state; *provided, however*, that such assent and certificate shall be filed as aforesaid, within thirty days after the execution of the same by the said stockholders; *and provided further*, that in no case shall the number of directors in such company be decreased to less than three.

SEC. 2. This act shall take effect immediately.

185. Mutual associations may create capital stock.

[Supplement, approved March 21st, 1888. P. L. 1888, p. 186.]

SEC. 1. It shall be lawful for the members of any mutual association or corporation heretofore or hereafter incorporated or organized under or by any law of this state, to provide for and create a capital stock of such association or corporation, upon the consent in writing of all the members of such association or corporation, and to provide for the payment of such stock, and to fix and prescribe the rights and privileges of the stockholders therein.(t)

SEC. 2. This act shall take effect immediately.

186. Corporations created for educational purposes may dissolve before expiration of charter.

[Supplement, approved March 6th, 1888. P. L. 1888, p. 137.]

[By this supplement, containing a preamble and three sections, it is provided that corporations created for educational purposes may, when the managers deem it advisable, dissolve before the expiration of their charter and wind up their affairs by a receiver and make distribution.]

187. Corporations for benefit of infirm firemen may extend corporate existence.

[Supplement, approved March 23d, 1888. P. L. 1888, p. 224.]

[By this supplement of three sections it is provided that any corporation organized for the benefit of indigent and infirm firemen of any city in this state that has failed, during the period for its continuance named in its charter or certificate of incorporation, to file with the secretary of state a certificate extending its corporate existence, as permitted by statute, but has continued and still continues its organization and the transaction of business, may still file such certificate at any time within thirty days from the passage of this act, naming therein a period not exceeding fifty years.]

188. Associations to encourage the purchase of homes.

[An act for the incorporation of associations to encourage the purchase of homes and to facilitate the payment therefor. Approved March 23d, 1888. P. L. 1888, p. 231.]

[By this act of six sections it is provided that any number of persons not less than seven may associate themselves together for the purpose of enabling occupants of lands and other persons to purchase the land or to borrow the money thereon of said association, by mortgage or otherwise, on the terms and conditions and subject to the liabilities prescribed in the act.]

189. Rights of corporations holding stock of other corporations.

[An act concerning corporations of this state, and of other states doing business in this state. Approved April 4th, 1888. P. L., 1888, p. 385.]

SEC. 1. It shall be lawful for any corporation of this state, or of any other state, doing business in this state and authorized by law to own and hold shares of stock and bonds of corporations of other states, to own and hold and dispose thereof in the same manner and with all the rights, powers and privileges of individual owners of shares of the capital stock and bonds or other evidences of indebtedness of corporations of this state.(u)

SEC. 2. This act shall take effect immediately.

(t) Co-operative companies may have a capital stock. Section 124.

(u) For other provisions relative to the holding by one company of stock in another, *vide* sections 168, 191, 219.

190. Merging of certain corporations.

[An act relating to the consolidation of corporations formed under the act entitled "An act concerning corporations," approved April 7th, 1875, and the acts amending and supplementing the same for the purposes of the improvement and sale of lands, the construction, maintenance and operation of hotels and carrying on the business of an inn-keeper, and the transportation of goods, merchandise or passengers upon land or water. Approved April 17th, 1888. P. L. 1888, p. 441.]

[This act of six sections provides for the merger and consolidation of corporations of the description set forth in the title of the act. See paragraphs 100, 151.]

191. Certain corporations may hold the stock of other corporations.

[An act to authorize corporations formed under the act entitled "An act concerning corporations," approved April 7th, 1875, and the acts amending and supplementing the same, for the purpose of the improvement and sale of lands, or the building, operation and maintenance of hotels and carrying on the business of an inn-keeper, or of the transportation of goods, merchandise or passengers upon land or water, to purchase and hold stock in any one or more of said companies in certain cases. Approved April 17th, 1888. P. L. 1888, p. 445.]

SEC. 1. It shall and may be lawful for any company heretofore or hereafter organized under the provisions of an act entitled "An act concerning corporations," approved April seventh, one thousand eight hundred and seventy-five, and the acts supplementing and amending the same, for the purposes of the improvement and sale of land, or the building, operation and maintenance of hotels and the carrying on the business of an inn-keeper, or of the transportation of goods, merchandise or passengers upon land or water, to purchase and hold stock in the capital of any one or more corporations formed under said acts for either of the said purposes, and issue its own stock as for property purchased therefor; (v) *provided*, that said corporations shall have their principal office in, or be carrying on business, in whole or in part, in the same county; and *further provided*, that the said business of transportation carried on by said transportation company, may be incidental or necessary to the furnishing of proper facilities of travel to and from the lands or hotel of said other company or companies to the nearest points of established railroad transportation.

SEC. 2. This act shall take effect immediately.

192. Companies for guaranteeing collection of bad debts.

[Supplement of February 27th, 1889. P. L., p. 34.]

[This supplement of five sections provides that it shall be lawful for any ten or more persons to associate themselves into a company to carry on any business which has for its object the selling of credit, or the limiting, insuring or guaranteeing of the losses of wholesale dealers, manufacturers and jobbers, arising by reason of bad debts.]

193. Certain water companies may increase capital stock.

[An act to authorize water companies in this state, having a less capital stock than twenty thousand dollars, to increase their capital stock to fifty thousand dollars. Approved March 19th, 1889. P. L., p. 69.]

SEC. 1. All water companies in this state, having a less capital stock than twenty thousand dollars be authorized to increase their

(v) For other provisions relative to the holding by one company of stock in another, *vide* sections 168, 189, 219.

capital stock to an amount not exceeding fifty thousand dollars, by and with the consent of three-fourths of the stockholders of such company or companies, upon filing certificate of such action in the office of the secretary of state.

SEC. 2. This act shall take effect immediately.

194. Any company except railroad and canal companies may increase capital stock.

[An act concerning corporations. Approved April 3d, 1889. P. L., p. 155.]

SEC. 1. It shall be lawful for any corporation of this state, whether organized under a special act of incorporation or under general laws, excepting, always, railroad and canal corporations, to increase its capital stock to such an amount as may be determined by its board of directors; *provided*, that such corporation shall, previous to the issuing of any share of stock representing such increase of its capital, file in the office of the secretary of state for this state a certificate, signed by its president and under its corporate seal, attested by its secretary, setting forth the amount of the proposed increase of capital and the number of shares of stock into which the same is to be divided, and also the assent in writing, of stockholders owning at least two-thirds in value of the existing capital stock, to said proposed increase of capital. (*w*)

SEC. 2. All acts and parts of acts inconsistent with or repugnant to the provisions of this act are hereby repealed, and this act shall take effect immediately.

195. Fees to be paid secretary of state on filing certificates.

[Supplement of April 3d, 1889. P. L., p. 160.]

SEC. 1. On filing the list of directors and officers annually by corporations doing business in this state, as now required by law, there shall be paid to the secretary of state, for the use of the state, the sum of one dollar, and for all other certificates relative to corporations, not otherwise provided for, the sum of twenty dollars.

196. List of corporations to be compiled.

[This is the second section of supplement of April 3d, 1889. P. L., p. 160.]

SEC. 2. It shall be the duty of the secretary of state to compile and publish in pamphlet form, during the present year, from the records of his department, a complete list of corporations organized under the corporation or other general public laws of this state prior to the first day of January, one thousand eight hundred and eighty-nine; and annually thereafter, on or before the

(*w*) For other provisions relative to increase of stock, see section 24 and notes.

first day of March, in like manner to compile and publish a complete list of such corporations organized during the preceding year, together with the names of the officers and the location of the principal office of each in this state; the expense incurred in carrying out the provisions of this act shall be paid by the secretary of state from moneys collected under this act, the act to which this is a supplement or other supplements thereto.

SEC. 3. All acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and this act shall take effect immediately.

197. Corporate existence may be extended although term has expired.

[Supplement of May 7th, 1889. P. L., p. 367.]

SEC. 1. It shall be lawful for any corporation hitherto created under or by virtue of any law of this state, which has maintained its organization but which may have failed to renew or extend its corporate existence, as provided by law, to do so for a period not exceeding fifty years, by filing a certificate to that effect in the department of state; *provided*, that such corporation shall be subject to all charges, fees and taxes now imposed by law upon like corporations.

198. On filing certificate existence is extended.

SEC. 2. Upon filing such certificate the period of the existence of such corporation shall be extended as therein declared as fully as if the said period had been named in the original charter or certificate of organization of such corporation.

199. Such extension not to impair the rights of the state.

SEC. 3. Nothing herein contained shall be construed to interfere with the right of the state, reserved by any law now or hereafter existing, to acquire the property or franchises of any such corporation, or at any time to abolish or repeal, alter or amend the charter of the same, nor shall this act be construed to continue any irrevocable or other contract with the state contained in any charter, beyond the time originally fixed for its expiration; nor shall this act apply to any corporation against which *quo warranto* or other proceedings for dissolution are pending.

SEC. 4. This act shall take effect immediately, and all acts and parts of acts inconsistent herewith are hereby repealed.

200. Powers of corporations for holding agricultural fairs and exhibitions.

[Supplement of May 9th, 1889. P. L., p. 409.]

SEC. 1. Every corporation that has heretofore been organized,

and that shall hereafter be organized, under the act to which this act is a supplement, and the other supplements thereto, for the purpose of holding agricultural fairs and exhibitions, shall have power to hold fairs and exhibitions of agricultural, horticultural, mechanical and manufacturing productions, collections and discoveries of works of art, of horses, cattle, sheep and other live-stock and animals, and for the encouragement of competition in the breed of stock and development of speed and other qualities in horses and other animals; to provide, keep and maintain grounds, buildings, road-tracks, walks and such other improvements as may be necessary or desirable for the proper display of the articles and things exhibited at said fairs and exhibitions; to encourage competition by the offer and payment of premiums and awards for stock and articles of a superior kind, class or quality, and to ask, demand and receive reasonable fees for the admittance of exhibitors and visitors to said fairs and exhibitions.

201. Directors of fair ground association have police powers.

SEC. 2. For the purpose of maintaining order and preserving the peace and decorum upon all grounds on which any fair and exhibition shall be held by any association organized under the provisions of the act to which this is a supplement, and the other supplements thereto, the directors of every such association shall have police jurisdiction upon the grounds on which such association shall hold any fair and exhibition, and for the distance of one-quarter of a mile from the boundaries of such grounds; it shall be the duty of said directors, and they shall have power, to suppress the sale of intoxicating liquors by parties not regularly licensed by the public authorities, and to prohibit every species of gambling and breach of the peace or laws of this state on said grounds and within said limits; and it shall also be lawful for said directors, or a majority of them, to appoint from time to time, as many fit and discreet persons as they may deem proper, as special police officers, who, before entering upon the duties of their respective offices, shall each take and subscribe an oath or affirmation, before a master in chancery, notary public or justice of the peace of the county in which such fair and exhibition may be held, that he will well and truly serve the State of New Jersey as such special police officer, and will execute and perform all services, acts and duties of his office to the best of his knowledge, judgment and ability, which oath or affirmation shall be forthwith filed in the office of

the clerk of the county in which such fair and exhibition may be held, the date of which filing shall be indorsed thereon by said clerk, who shall be paid for each oath or affirmation so filed the sum of twenty cents, and the persons so appointed and sworn or affirmed shall possess, so long as the said directors shall choose to retain them, the same powers and authority on the grounds where any such fair and exhibition may be held, and within the limits aforesaid, as are or may be vested in constables in criminal cases in this state, and they shall have power and authority, without process, to arrest all persons who shall be there found violating any of the laws of this state, or who shall conduct themselves in a disorderly manner, or disturb or wrongfully interfere with any such fair and exhibition, or the exhibitors thereat or visitors thereto, or who shall violate any of the rules or regulations of the association who may hold any such fair and exhibition, and any person so arrested shall be taken, as soon as conveniently may be, before a justice of the peace of the county in which such fair and exhibition may be held, there to be dealt with according to law.

202. Corporation may lease and operate railroad under this act.

[Supplement of May 9th, 1889. P. L., p. 411.]

SEC. 1. Nothing in the proviso contained in the tenth section of the said act to which this is a supplement shall be construed to forbid the formation of any company under said section, which shall propose to carry on transportation by means of a railroad operated by it as lessee thereof, if such railroad be already built, and has acquired its right of way and other appurtenances, and which new corporation formed does not in fact need to acquire the right of taking or condemning lands; but such corporation shall not in any case be authorized to acquire lands for right of way additional to that by it leased as aforesaid.

SEC. 2. This act shall apply as well to corporations already formed, and in possession of leased railroads, as to those hereafter formed.

SEC. 3. This act shall take effect immediately.

203. On repeal or dissolution of railroad or canal charter, chancellor to take charge.

[Supplement of April 17th, 1885 (P. L., p. 250), provides for petition by the attorney-general in the name of the state to the chancellor, and for a sale of the effects and franchises of the corporation.]

204. Corporations may construct docks, railways, tunnels, elevators and terminals, and consolidate with other corporations.

[Supplement of May 28th, 1890. P. L., p. 403.]

SEC. 1. It shall be lawful for any corporation, organized for that purpose under and in pursuance of any law of this state, to build and own dredges and to contract for dredging, to deepen channels, and to construct basins and docks, bulkheads, wharves and piers, and reclaim lands within and without this state; to construct, build, equip and use any railway track or tracks, tunnel or tunnels, necessary to connect the constructions of any company with the track or tracks of any railroad corporation in this state, or like foreign corporations now in existence or which may hereafter be created at the state lines, with the necessary elevators and terminal facilities for receiving, storing, or for shipping or reshipping grain, merchandise, coal, ores or other property by water or rail received from any source whatever; and the authority is hereby given to construct and use any tunnel under the lands or waters of this state, or bridge or bridges, for the use of any company, and may make and operate connections and consolidations with other corporations; subject in all matters, however, to the rights of riparian and other property owners and the interests of the state, to be ascertained and compensated for as provided by the laws of the State of New Jersey.

205. Corporations not dissolved by suspension of business or failure to file statements.

[An act concerning corporations. Passed May 23d, 1890. P. L., p. 344.]

SEC. 1. In case any association, corporation or company hitherto created under or by virtue of any law of this state, shall have deemed it advisable to suspend its ordinary business (except in case of insolvency or for want of funds to carry on the same), and is not now transacting business, or may have omitted to file some of the reports or statements of its condition or management required by law to be filed, such corporation or company shall not be deemed dissolved, nor liable to be dissolved, by reason thereof; *provided*, that such corporation or company has maintained and still continues its corporate organization and has an appointed place or office in this state where its books of account, and stock and transfer books, are kept in charge of the cashier, secretary or other appointed officer of such company, and that a majority of its stock is held by residents of this state; *and provided further*, that such corporation or company shall, on resuming business, pay into the department of state all fees and taxes remaining due and unpaid, and shall file therein a certificate, in the form prescribed by law, giving a full statement of its condition and affairs, and shall pay to the secretary of state, for the use of the state, the

sum of money provided by law to be paid on the filing of such certificate.

SEC. 2. This act shall not apply to any corporation or company against which any legal proceedings for dissolution are pending.

SEC. 3. This act shall take effect immediately.

206. Majority of survivors of commissioners may receive subscriptions to stock.

[An act to provide a method for appointing commissioners in the place of other commissioners who have deceased or who shall fail to act in certain cases touching the organization of companies, and providing for the organization of companies in certain cases. Approved June 6th, 1890. P. L., p. 415.]

SEC. 1. In all cases where acts of incorporation have heretofore been passed, in which certain commissioners therein named, or a majority of them, are authorized to receive subscriptions to the capital stock of any company, and to do certain things mentioned in said acts of incorporation, and where a majority of said commissioners are now living, and it appears by a newspaper published in the county where the principal place of business of said company is to be situated, that the company has heretofore organized, but the records of such organization, if it were organized, shall, by affidavit of any competent person, appear to have been lost or destroyed, that a majority of the survivors of the persons named as commissioners in any such act or acts of incorporation (see sections 179, 206) shall have the power and authority to receive subscriptions to the capital stock of such company or companies, and to perform all the duties which would have devolved upon the incorporators named in said act in regard to the organization of such company or companies, the same as if the commissioners had regularly acted under their charter.

SEC. 2. This act shall take effect immediately.

207. Corporation which has restricted free sale of stock, may remove restrictions.

[Supplement of March 9th, 1891. P. L., p. 87.]

SEC. 1. When any corporation created by the act to which this is a supplement shall have or has by the terms of its certificate of organization limited or restricted the free sale or transfer of its stock(x) by requiring such company at a corporate meeting to fix upon the value of such stock, and by giving, in any manner, such company or its board of directors a pre-emption upon or right to purchase such stock before the transfer thereof by the owner to a third person, or by requiring any employe who shall be a stockholder thereof to hold his stock subject to such pre-emptive right

(x) See section 11 for authority to create limitations and restrictions.

in said company, or to sell the same to said company upon his or her ceasing to be a stockholder therein, such corporation shall have the power by a two-thirds vote of its board of directors at a regular or special meeting called for that purpose, to change, alter or repeal any or all of such restrictions or limitations, and any or all provisions inserted in said certificate of organization for the purpose of securing the same; *provided*, all the stockholders of such company shall surrender their stock issued under the original certificate, and shall accept in lieu thereof new stock to be issued in pursuance of such resolution; and if any stockholder shall refuse to convert his stock as aforesaid within thirty days after written notice to him or her of the adoption of such resolution, the said corporation may apply by petition to the court of common pleas of the county in this state where the chief office of said company may be kept, or to a judge of said court in vacation, if no court is sitting, on two days' notice to such dissenting stockholder, to appoint three disinterested persons to estimate the damage, if any, to such dissenting stockholder by said resolution, whose award, or that of a majority of them, shall be final and conclusive, and the persons so appointed shall also appraise said stock of such dissenting stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said change; and the said company, on payment or tender to said stockholder of the value of his said stock and the amount, if any, of the damage so as aforesaid ascertained, shall be entitled to a transfer of such stock and to enforce the same by an action for specific performance; and upon the transfer thereof, such stock shall be held or disposed of by the company at the discretion of the directors; *and provided*, said corporation cause to be made, recorded and filed, a certificate in writing which shall set forth:

I. The clauses or provisions in its original certificate of organization which are proposed to be altered, amended or repealed;

II. The disposition to be made of such provisions, whether by alteration, amendment or repeal; and if altered or amended, the language of such provision after such alteration or amendment shall be made;

Which certificate shall be signed by a majority of the board of directors of such corporation, the corporate seal shall be thereto affixed, and attached thereto shall be an affidavit of the secretary or treasurer of said company that all of the stock has been sur-

rendered either voluntarily or involuntarily, as hereinabove provided for; and the said certificate having been first recorded in the office of the county clerk where the original certificate of organization is recorded, shall be filed in the office of the secretary of state.

SEC. 2. Upon the filing of such amended certificate in the office of the secretary of state the restrictions and limitations upon the transfer of the stock of such corporation named in the original certificate of organization shall be altered, amended or repealed accordingly as such amended certificate shall provide.

SEC. 3. All acts and parts of acts inconsistent with this act be and they are hereby repealed, and this act shall take effect immediately.

208. Where incorporation takes effect only on happening of event, same to take effect on filing certificate, &c.

[Supplement of March 16th, 1891. P. L., p. 141.]

In all cases where acts of this state, whether general, special, local or otherwise, have heretofore been or are hereafter passed, providing for the creation or incorporation by proceedings to be taken thereunder or otherwise of any corporation or corporations, but limited to take effect only upon the happening of some future condition or event or proceedings to be taken therein named, such acts shall respectively take effect from and after the time when the persons, or a majority of the surviving persons, if any be dead (see sections 179, 206), interested in any such enterprise as incorporators, commissioners, stockholders or directors, as the case may be, shall make and sign in writing and file with the secretary of state a written acceptance by them duly acknowledged as a deed to be recorded of the provisions of this act, and an agreement to be approved by the governor and attorney-general, surrendering to the state all rights of exemption from taxation and all privileges and advantages arising from any alleged contract establishing any special mode of taxation in respect to such parties, and agreeing further, that such acceptance shall not in any wise affect or impair the right of the state to take the property of such parties thereto under any existing law of the state, and that any law affecting such parties shall be subject to alteration or repeal by the legislature, and this act shall apply to and affect each and all of the class above mentioned without any qualification, limitation, exception or restriction of any kind or nature whatsoever, whether claimed to arise out of such act or any other act or otherwise.

209. Amount to be paid in cash in certain cases. Subscriptions may be reduced, rejected or apportioned.

[Supplement of March 16th, 1891. P. L., p. 142.]

SEC. 1. In all cases where acts of this state, general or special, have heretofore been or may hereafter be passed authorizing the organization or incorporation by any proceedings to be taken thereunder or otherwise of any corporation or corporations having in and by any such act or any certificate filed thereunder an authorized capital stock exceeding in amount the sum of one hundred thousand dollars, upon the subscription of a certain amount of such capital stock in such act or certificate filed thereunder, limited, and the payment of a certain proportion thereof in cash as in such act or certificate filed thereunder stated (see sections 54, 116), it shall and may be lawful to organize and incorporate such corporation or corporations upon the subscription of one hundred thousand dollars of such capital stock and the payment thereon in cash of ten thousand dollars, and the organization or incorporation so effected on such subscription and payment shall be valid, complete and effectual to and for all the uses, intent, objects and purposes of the corporation or corporations so organized and incorporated under the provisions of this act; and in case upon the organization of any corporation under the provisions of this act the total amount of capital stock subscribed shall exceed one hundred thousand dollars, a majority of the persons authorized to receive the same may reduce, reject or apportion such subscriptions among subscribers in such manner as they may deem most likely to promote the interests of the corporation so created.

SEC. 2. All acts and parts of acts, general, special, public, private, local or otherwise in any manner inconsistent with or repugnant to the provisions of this act be and the same hereby are repealed.

210. If corporation fail for two years to pay state tax, charter void.

[Amendment of March 20th, 1891. P. L., p. 199.]

SEC. 1. If any corporation which has been heretofore or shall hereafter be created by the legislature, or under any act of legislature, shall for two consecutive years neglect or refuse to pay the state any tax which has been or shall be assessed against it under any law of this state and made payable into the state treasury, the charter of such corporation shall be void, and all powers conferred by law upon such corporation are hereby declared inoperative and

void, unless the governor shall, for good cause shown to him, give further time for the payment of such taxes, in which case a certificate thereof shall be filed by the governor in the office of the comptroller, stating the reasons therefor.(y)

211. List of delinquents—Governor's proclamation declaring repeal of charter.

SEC. 2. On or before the first day of May in each year the comptroller shall report to the governor a list of all the corporations which for two years next preceding such report have failed, neglected or refused to pay the taxes assessed against them under any law of this state as above, and the governor shall forthwith issue his proclamation, declaring under this act of the legislature that the charters of these corporations are repealed.

212. Governor's proclamation to be published.

SEC. 3. The proclamation of the governor shall be filed in the office of the secretary of state, and published in such newspapers and for such length of time as the governor shall designate.

213. Misdemeanor to exercise powers after proclamation.

SEC. 4. Any person or persons who shall exercise or attempt to exercise any powers under the charter of any such corporation after the issuing of such proclamation shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment not exceeding one year, or a fine not exceeding one thousand dollars, or both, in the discretion of the court.

214. Repeal of charters of corporations not paying state tax.

[An act to repeal the charters of all corporations that have heretofore failed to pay state taxes imposed upon them by law, approved March 20th, 1891. P. L., p. 200.]

SEC. 1. The charters of all corporations incorporated under any special or general law of this state that have failed to pay the taxes imposed upon them by law, and payable into the state treasury and in arrears therefor, or for any part thereof, for the space of two years, be and the same are hereby repealed and declared null and void, unless the governor for good cause shown to him shall give further time for the payment of such taxes, in which case a certificate thereof shall be filed by the governor in the office of the comptroller, stating the reasons therefor.(z)

215. List of delinquents—Proclamation declaring repeal.

SEC. 2. The comptroller shall, on or before the first day of May, one thousand eight hundred and ninety-one, report to the governor

(y) See, also, sections 162-164.

(z) See, also, sections 162-164.

a list of all corporations coming within the first section of this act, and the governor shall forthwith issue his proclamation declaring, under this act of the legislature, that the charters of these corporations are repealed.

216. Proclamation to be published.

SEC. 3. The proclamation of the governor shall be filed in the office of the secretary of state, and published in such newspapers and for such length of time as the governor shall designate.

217. Misdemeanor to exercise powers after proclamation.

SEC. 4. That any person or persons attempting to exercise any power under the charter of any corporation, after the issuing of such proclamation, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment not exceeding one year, or a fine not exceeding one thousand dollars, or both, in the discretion of the court.

218. Residence of directors of water company.

[Supplement of March 31st, 1891. P. L., p. 274.]

SEC. 1. It shall not be necessary for more than one of the directors of any water company organized under any law of this state, to be an actual inhabitant and resident of this state; *provided*, that this act shall not apply to any company specially organized to procure lands and reservoirs within this state and all water or water rights under contract to any city or municipality in this state. (a)

SEC. 2. All acts, or parts of acts, so far as they conflict with this supplement, are hereby repealed, and that this act shall take effect immediately.

219. Certain construction companies may take bonds, stocks and materials in pay for work, &c.

[An act to authorize corporations formed for the purpose of constructing or repairing either railroads, water, gas, or electric works, tunnels, bridges, viaducts, canals, hotels, wharves, piers, or any or all such works of internal improvement or public use or utility, to subscribe for, take, pay for in property, materials or services, hold use and dispose of stock or bonds in any corporation formed for the purpose of constructing, maintaining and operating any such public works. Approved April 6th, 1891. P. L., p. 329.]

SEC. 1. In all cases where corporations have heretofore been or are hereafter incorporated under the provisions of an act entitled "An act concerning corporations," approved April seventh, one thousand eight hundred and seventy-five, having for their general object or purpose the building, constructing or repairing of railroads, water, gas, or electric works, tunnels, bridges, viaducts, canals, hotels, wharves, piers or any or all such works of internal improve-

(a) See, also, sections 108, 112, 133.

ment or public use or utility, it shall and may be lawful for such corporations to subscribe for, take, pay for, hold, use and dispose of stock^(b) or bonds in any corporation or corporations formed for the purpose of constructing, maintaining and operating any such public works, with the same rights and privileges as individuals would be entitled to in like case; and it shall and may be lawful for the directors of any such corporation formed for the purpose of constructing, maintaining and operating any public work or works of the character and description aforesaid to accept in payment of any such subscription or purchase, property, real or personal, necessary for the purposes of such corporation or work, labor and services performed or materials furnished to or for such corporation for the uses and purposes thereof to the amount of the value thereof, and from time to time to issue upon any such subscription or purchase, in such installments or proportions as such directors may agree upon, full paid stock in full or partial performance of the whole or any part of such subscription or purchase, and the stock so issued shall be declared and taken to be full paid stock and not liable to any further call, neither shall the holder thereof be liable for any further payments under any of the provisions of any act, and said stock shall have legibly stamped upon the face thereof, "Issued for property purchased,"^(c) and in all statements and reports of the company to be published this stock shall not be stated or reported as being issued for cash paid into the company, but shall be reported in this respect according to the act.

SEC. 2. All acts and parts of acts, whether general, special, local or otherwise, in any manner inconsistent with or repugnant to the provisions of this act, be and the same are hereby repealed.

220. When issue of stock increased, certificate to be filed.

[Supplement of April 6th, 1891. P. L., p. 332.]

Sec. 1. When any corporation of this state has authorized, or may hereafter authorize, the increase of its capital stock, it shall be lawful for such increase to be made, and the shares issued from time to time, in such sums and in such manner as the board of directors or trustees or managers of the corporation, may determine; *provided*, that no issue of stock so increased, whether authorized by the original charter or certificate of organization, or

(b) For other provisions relative to the holding by one corporation of stock in another, *vide* sections 168, 189, 191.

(c) See sections 55, 144.

a supplemental certificate, shall be made until a certificate, under the seal of the corporation, setting forth the amount and date of such increase, as also the statute and the certificate authorizing it, and the total amount of stock issued, including the increase, shall have been filed in the department of state.(d)

SEC. 2. This act shall take effect immediately, and all acts and parts of acts inconsistent herewith, be and the same are hereby repealed.

(d) For other provisions relative to increase, see section 24 and notes.

FORMS.

I. Engagement to take stock in a corporation to be formed.

The undersigned hereby engage with K. L. & Co., proprietors of the Washington Mills, in the city of N., and with each other, that they will take the number of shares in The Palisades Manufacturing Company proposed to be formed, set opposite their respective names, and pay for them as called upon by the said company.

It is agreed that the capital of the said company shall be one hundred thousand dollars, in one thousand shares of one hundred dollars each, and that the corporate existence shall continue for fifty years.

It is also understood and agreed that the representations to us that the profits of the business—viz., about ten thousand dollars per annum—shall be sustained by an examination of the books of the present proprietors, or our obligations to take stock shall be null and void.

[Date.]

[Signatures and seals and number of shares.]

II. Certificate of organization of a manufacturing company.

[For requirements of certificate, and for provisions which may be inserted therein, see sections 10, 11, 15, 17, 25, 52, 143, 144, *supra*. It must be acknowledged or proved in the same form as a deed of real estate, and recorded in the office of the clerk of the county where the principal office is to be located, and filed with the secretary of state. Section 11. It may contain any limitation on the powers of the corporation, the directors and the stockholders, that the corporation may desire. Section 11, V. After being acknowledged or proved, the certificate must be recorded in the office of the clerk of the county wherein the principal office is located; the clerk will endorse a certificate of the recording upon the certificate of organization, and it must then be filed with the secretary of state, at Trenton. After it is filed the corporate existence begins at the time fixed in the certificate. Sections 11, 13.]

CERTIFICATE OF THE ORGANIZATION OF "THE PALISADES MANUFACTURING COMPANY."

This is to certify that we, A. B., C. D., E. F., G. H. and I. K. [name all the corporators, who must be at least three in number, and in case of co-operative associations and safe deposit and trust companies, at least seven in number], do hereby associate ourselves into a company under and by virtue of the provisions of an act of the legislature of New Jersey, entitled "An act concerning corporations," approved April seventh, eighteen hundred and seventy-five, and the several supplements thereto and acts amendatory thereof, for the purposes hereinafter mentioned, and to that end we do by this our certificate set forth:

FIRST. That the name which we have assumed to designate such company, and to be used in its business and dealings, is "The Palisades Manufacturing Company."

SECOND. That the places in this state where the business of such company is to be conducted are Jersey City and the city of Hoboken, in the county of Hudson, and the city of Paterson, in the county of Passaic. The principal part of the business of said company within this state is to be transacted at Jersey City, in the county of Hudson, and the places out of this state where the same is to be conducted and where the company proposes to carry on operations are the cities of New York and Albany, in the State of New York; and that the objects for which the company is formed are to manufacture cotton fabrics, and to sell the same. [*State, generally, the objects and purposes of the company.*] The portion of the business of said company which is to be carried on out of this state in the said cities of New York and Albany is the selling of the manufactured products of said company. The principal office or place of business of said company out of this state is the city of New York, in the county and State of New York.

THIRD. That the total amount of the capital stock of said company is one hundred thousand dollars; the number of shares into which the same is divided is one thousand, and the par value of each share is one hundred dollars. [*If part of the stock is to be preferred it may be so provided, for example, as follows:*] Four hundred of said shares are to be preferred stock, the holder whereof shall be entitled to receive, and the company bound to pay, a fixed yearly dividend of eight per centum, payable half-yearly, before any dividend shall be set apart or paid on the general stock. Such preferred stock to be subject to redemption, at par, on January 1, 1910. The holders of said preferred stock may choose three directors and the holders of the general stock may choose four directors [*vide* sections 25, 17, 144]. The amount with which said company will commence business is ten thousand dollars, which is divided into one hundred shares of a par value of one hundred dollars each.

FOURTH. The names and residences of the stockholders, and the number of shares held by each, are as follows, to wit:

- A. B., Jersey City, New Jersey, ten shares.
- C. D., Newark, New Jersey, twenty shares.
- E. F., Paterson, New Jersey, fifty shares.
- G. H., Boston, Massachusetts, fifteen shares.
- I. K., London, England, five shares.

FIFTH. The period at which said company shall commence is the fourth day of January, A. D. eighteen hundred and ninety-one, and the period at which it shall terminate is the fourth day of January, A. D. nineteen hundred and thirty-one.

In witness whereof we have hereunto set our hands and seals the third day of January, A. D. eighteen hundred and ninety-one.

[*Signatures and seals.*]

III. Acknowledgment.

STATE OF NEW JERSEY, }
COUNTY OF HUDSON, } ss.

Be it remembered that on this third day of January, eighteen hundred and ninety-one, before me, W. D. E., a master of the court of chancery of the State of New Jersey [or a commissioner of deeds, or other officer authorized to take acknowledgments], personally appeared A. B., C. D., E. F., G. H. and I. K., who I am satisfied are the persons named in and who executed the foregoing certificate, and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

[Signature and title of officer.]

IV. Proof by subscribing witness.

STATE OF NEW JERSEY, }
COUNTY OF HUDSON, } ss.

Be it remembered that on the third day of January, A. D. eighteen hundred and ninety-one, before me, the subscriber, a master in chancery of said state, personally appeared J. P. N., who being by me duly sworn, on his oath did depose and say, that he saw A. B., C. D., E. F., G. H. and I. K., the persons named in the foregoing certificate, sign, seal and deliver the same as their voluntary act and deed, and that the deponent at the same time subscribed his name thereto as a witness of the execution thereof.

[Signature and title of officer.]

V. Notice of first meeting.

[This notice must be signed by a majority of the persons named in the certificate, and either published in a newspaper of the county where the company is to be established, two weeks before the meeting, or served personally on all the parties named in the certificate, two days before the meeting, or all the parties may waive notice. Section 22.]

NOTICE OF THE FIRST MEETING OF THE PALISADES MANUFACTURING COMPANY.

Notice is hereby given that the first meeting of The Palisades Manufacturing Company, for the purpose of electing directors and officers, and taking such other action as may be necessary to properly organize the said company, will be held at the office of J. S. M., attorney-at-law, at No. 1 E. street, in Jersey City, on the twentieth day of January, eighteen hundred and ninety-one, at two o'clock in the afternoon.

Dated Jersey City, January 4, 1891.

[Signatures.]

VI. Waiver of notice of first meeting.

[Vide section 22, *supra*.]

We, the subscribers, being all the parties named in the certificate of the organization of The Palisades Manufacturing Com-

pany, do hereby waive notice of the time, place and purpose of the first meeting of said company, and do fix this fourth day of January, A. D. eighteen hundred and ninety-one, at two o'clock in the afternoon, as the time, and the office of J. S. M., No. 1 E. street, in Jersey City, as the place of the first meeting of said company.

Dated Jersey City, January 4, 1891.

[Signatures of all the corporators.]

VII. Order of business for first meeting of a corporation.

MEETING OF STOCKHOLDERS.

1. If notice of the meeting [*form V.*] has not been given, have all the parties named in the certificate of organization sign the waiver [*form VI.*] Section 22.
2. Call the meeting to order, and elect a temporary chairman and secretary.
3. Have the certificate of organization and the call for the meeting read.
4. Order that the certificate of organization and the waiver or notice of the meeting be spread upon the minutes.
5. Adopt the by-laws. [For matters which should be contained in the by-laws, see *form VIII.*]
6. Elect a board of directors, by ballot. Section 37.
7. Elect president, secretary and treasurer, unless the by-laws provide for their election by the board of directors. Sections 17, 18.
8. Have the oath administered to the secretary. Section 18.
9. By a two-thirds vote, instruct the directors to levy an assessment on the stock. Section 27.
10. Adjournment.

MEETING OF DIRECTORS.

1. Elect officers, if they have not been elected by the stockholders, and have the oath administered to the secretary. [See *form IX.*] Sections 17, 18.
2. Approve the treasurer's bond, if presented. [See *form X.*] Section 18.
3. Levy an assessment on the stock. Section 27.
4. Authorize the treasurer to procure books, &c.
5. Direct purchase of property and issue of stock therefor, if desired. Section 55.
6. Fix upon the principal office of the company within the state. Sections 11, 15, 49, 50.
7. Adopt an office outside of this state, if desired. Sections 15, 50.
8. Adjournment.

VIII. Matters to be regulated by the by-laws.

[The act concerning corporations explicitly provides that certain matters may be regulated by the by-laws; a list of such matters is given below, with a reference to the section of the statute where mentioned. As to the power to make by-laws, see section 1, division VI. A by-law of the directors regulating elections must be made thirty days previous to election. Section 45.]

Fixing and altering number of directors. Section 1, VI.
 Election of directors. Section 17.
 Election of president. Section 17.
 Classification of directors. Section 17.
 Election of secretary and treasurer. Section 18.
 Bond of the treasurer. Section 18.
 Other officers and agents. Section 19.
 Vacancies among the officers or directors. Section 20.
 Calling and conducting meetings. Section 21.
 Quorum. Section 21.
 Transfer of stock. Section 1, VI. Section 26.
 Officers' and directors' meetings outside this state. Section 50.
 Keeping books outside of the state. Section 50.
 Time of declaring dividends. Section 52.
 Penalties for breach of by-laws. Section 1, VI.

IX. Oath of the secretary.

[As to secretary's oath and duties, *vide* section 18.]

STATE OF NEW JERSEY, }
 COUNTY OF HUDSON, } ss.

I, R. S., do solemnly swear that I will faithfully discharge the duties of the office of secretary of The Palisades Manufacturing Company to the best of my skill and ability, so help me God.

Subscribed and sworn }
 to, etc.

R. S.

X. Bond of the treasurer.

[As to the bond, *vide* section 18, *supra*.]

Know all men by these presents, that we, T. L., M. N. and O. P., all of Jersey City, in the State of New Jersey, are held and firmly bound unto The Palisades Manufacturing Company in the sum of ten thousand dollars, lawful money of the United States, to be paid to the said The Palisades Manufacturing Company, its successors and assigns; to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals. Dated the, etc.

The condition of the above obligation is, that whereas the said T. L. hath been duly elected treasurer of The Palisades Manufacturing Company, and is about to enter upon the duties of the said office, now, therefore, if the said T. L. shall in all respects faithfully discharge his duty as such treasurer, then this obligation shall be void, otherwise to be and remain in full force and virtue.

[Signatures and seals.]

In presence of, etc.

XI. Notice of assessment of stock.

THE PALISADES MANUFACTURING COMPANY,
No. 10 E. Street, Jersey City, May 10th, 1881. }

By resolution of the board of directors, passed by authority of the stockholders, an assessment of ten per cent. on the capital stock of this company is now called for, payable to T. L., treasurer, No. 10 E. street, Jersey City, N. J., on or before May twentieth, eighteen hundred and eighty-one. Checks should be to the order of T. L., treasurer.

A. B., President.

XII. Certificate of general stock.

[It must be signed by the treasurer. Section 23. In case the stock is issued for property purchased, there must be legibly stamped on the face of the certificate the words "issued for property purchased." Section 55. For provisions respecting preferred and guaranteed stock, see sections 17, 25, 144.]

THE PALISADES MANUFACTURING COMPANY.

Incorporated under the laws of the State of New Jersey.

Number Shares.

This is to certify that A. B. is entitled to one share in the capital stock of The Palisades Manufacturing Company, transferable only on the books of the company in person or by attorney on the surrender of this certificate.

Dated Jersey City, Jan. 5, 1881.

A. B., President.

T. L., Treasurer.

Capital, \$100,000.

Shares, \$100 each.

. XIII. Certificate of preferred stock.

THE PALISADES MANUFACTURING COMPANY.

Incorporated under the laws of the State of New Jersey.

Number Shares.

This is to certify that A. B. is entitled to ten shares in the full paid Preferred Capital Stock of The Palisades Manufacturing Company, transferable only on the books of the company in person or by attorney on the surrender of this certificate. This stock is part of an issue not exceeding in all forty thousand dollars par value, authorized by the certificate of organization of the company [or, created by a resolution of the board of directors, dated July 1, 1891, under authority duly given by the general stockholders, *as the case may be*]. The holder of this stock is entitled to receive and the company is bound to pay a fixed yearly dividend of eight per centum, payable half-yearly, on January 1 and July 1 in each year, before any dividend shall be set apart, or paid on the general stock.

This stock is subject to redemption at par, on the first day of January 1910.

Dated Jersey City, August 1, 1891.

A. B., President.

T. L., Treasurer.

Common stock, \$60,000.
Preferred stock, \$40,000.

Shares, \$100 each.

XIV. Power of attorney to transfer stock.

[Stock is transferable on the books of the company in such manner as the by-laws may provide. Section 26.]

For value received I, the undersigned, hereby assign and transfer unto C. D. one share of the capital stock of The Palisades Manufacturing Company, and do hereby constitute and appoint E. F. my true and lawful attorney, irrevocable, for me and in my name and behalf to make and execute all necessary acts of assignment and transfer on the books of said company.

In witness whereof I have hereunto set my hand and seal this first day of, etc.

Sealed and delivered in }
the presence of, etc. }

[Signature and seal.]

XV. Form of transfer of stock when it is endorsed on the certificate.

Know all men by these presents, that I do hereby transfer ten of the within shares of stock to C. D., and I appoint E. F. my attorney, irrevocable, for me to transfer the same upon the books of the company, with power to appoint one or more attorneys for that purpose.

Dated this first day, etc.

In presence of, etc.

[Signature and seal.]

XVI. Form of transfer of stock on the company's books.

No 16. Shares, one.

THE PALISADES MANUFACTURING COMPANY.

TRANSFERRED BY

Transfer No. 16.

A. B.

JERSEY CITY, May 10, 1881.

(Ledger Folio 5.)

TRANSFERRED TO

C. D.

(Ledger Folio 10.)

No. Certificate surrendered, 31.

No. Certificate issued, 81.

Dated, May 10, 1881.

For value received, I, A. B., of Jersey City, N. J., do hereby sell, assign and transfer to C. D., of the same place, one share of the capital stock of The Palisades Manufacturing Company, standing in my name on the books of said company.

A. B.,

By E. F.,
Attorney in fact.

XVII. Notice of sale of stock on which assessments are not paid.

[To be published and also mailed to the delinquent. See section 29.]

SALE OF STOCK OF THE P. M. CO.

Public notice is hereby given that the undersigned, treasurer of said company, will sell at public auction ten shares of the capital stock of The P. M. Company, on which fifty per centum has been paid in, belonging to I. K., for non-payment of assessment on the

stock of the said I. K., according to the statute in such case made and provided. The sum of fifty dollars remains due on each share.

The sale will be held at the office of the said company, No. 10 E. street, in Jersey City, on the first day of February, eighteen hundred and eighty-one, at two o'clock in the afternoon.

Dated January 3, 1881.

T. L., Treasurer.

XVIII. Certificate of payment of capital stock.

[Should be made and recorded in the county clerk's office within thirty days after the payment of the last installment of the capital. Sections 30, 31, 32.]

We, A. B., C. D. and E. F., the directors, the said A. B. being also the president, R. S. the secretary, and T. L. the treasurer of The P. M. Company, do hereby certify that the sum of one hundred thousand dollars, the amount fixed as the total stock of said company, has been fully paid in in cash [*or*, by the purchase of property, *as the case may be*], the last installment of the same having been paid within the past thirty days.

Witness our hands the day of, etc.

A. B., President and Director.

C. D., Director.

E. F., Director.

R. S., Secretary.

T. L., Treasurer.

STATE OF NEW JERSEY, }
COUNTY OF HUDSON, } ss.

A. B., the president, R. S., secretary, T. L., treasurer, and the said A. B. and C. D., a majority of the directors of The P. M. Company, being severally duly sworn on their respective oaths, depose and say that the foregoing certificate by them signed is true.

[Signatures.]

Subscribed and sworn to, etc.

XIX. Notice of annual meeting of stockholders.

Notice is hereby given that the annual meeting of the stockholders of The P. M. Company will be held at the office of the company, number, etc., in the city of, etc., on Monday, the first day of February, A. D. eighteen hundred and eighty-one, at twelve o'clock noon, for the election of a board of seven directors and for all other business that may properly come before the meeting.

The transfer books will be closed for this purpose at the close of business on the tenth instant, and will be opened on the morning of the second of February.

Dated January 1, 1881.

R. S., Secretary.

XX. Call for special meeting of stockholders.

[The method of calling the meeting is to be determined by the by-laws. Section 21.]

To Mr. E. F.—You are hereby notified to attend a meeting of the stockholders of The P. M. Company, to be held at the company's office, at No. 10 E. street, in Jersey City, on the first day of February next, at two o'clock in the afternoon, for the purpose of *[state the object of the meeting]*.

By order of the Board of Directors.

Dated, etc.

R. S., Secretary.

XXI. Call for meeting by three stockholders, in case of officers' neglect or defective by-laws.

[The call must be published for ten days in a newspaper circulating in the county wherein the business is conducted, or where the principal office is located. Section 51.]

Notice is hereby given by A. B., C. D. and E. F., three stockholders of The Palisades Manufacturing Company, that a meeting of the stockholders of said company will be held at the company's principal office in Jersey City, on Monday, the seventh day of February next, at two o'clock in the afternoon, for the purpose of electing directors *[or, as the case may be]*. This call is issued by three stockholders because the officers of said company have improperly neglected to call such meeting *[or other cause, as the case may be]*.

Dated January 25, 1881.

[Signatures.]

XXII. Proxy to vote at annual meetings.

[See provisions regarding proxies. Sections 21, 38.]

Know all men by these presents, that I, A. B., do hereby constitute and appoint R. S. my attorney and agent, for me and in my name, place and stead, to vote as my proxy at any annual meeting of the stockholders of The Palisades Manufacturing Company for the election of directors, and upon such other questions as may come before such annual meeting, according to the number of votes I should be entitled to cast if then personally present.

In witness thereof I have hereunto set my hand and seal this eleventh day of June, one thousand eight hundred and eighty-one.

Sealed and delivered in }
the presence of, etc. }

XXIII. Proxy to vote at special meeting.

Know all men by these presents, that I, A. B., do hereby constitute and appoint R. S. my attorney and agent, for me and in my name, place and stead, to vote as my proxy at a special meeting of the stockholders of The P. M. Company, to be held at the company's office, in the city of J., on the first day of June next, called to consider the adoption of a resolution of the directors

passed on the tenth day of May instant, relative to the issuing of one million dollars of mortgage bonds of said company [*or, as the case may be*], according to the number of votes I should be entitled to cast if then personally present.

In witness whereof [*etc., as in last above form*].

XXIV. Notice of dividend.

OFFICE OF THE BOARD OF DIRECTORS,
American Express Company,
New York, May 18, 1881. }

The board of directors of this company have this day declared a dividend of two dollars and fifty cents (\$2.50) per share, payable on the first day of July next. The transfer books will be closed from the eleventh day of June to the second day of July next.

By order of the Board.

J. N. K., Secretary.

XXV. Notice of close of transfer books.

UNITED STATES EXPRESS COMPANY,
Treasurer's Office, 82 Broadway,
New York, April 19, 1881. }

The transfer books of this company will be closed May fifth, at three P. M., and re-opened May seventeenth, eighteen hundred and eighty-one.

T. F. W., Secretary.

XXVI. Power of attorney to collect dividend.

Know all men by these presents, that I, A. B., of N., do authorize, constitute and appoint C. D., of J., to receive from The P. M. Company the dividend now due me on all stock standing in my name on the books of the said company, and receipt for the same; hereby ratifying and confirming all that may lawfully be done in the premises hereof.

Witness, etc.

[*Signature and seal.*]

XXVII. List of directors to be filed annually.

[This form is furnished by the secretary of state. See provisions regarding the same. Sections 49, 133.]

STATEMENT BY CORPORATION TRANSACTING BUSINESS IN THE STATE OF NEW JERSEY.

As required by an act of the legislature of New Jersey, approved March eighth, eighteen hundred and seventy-seven, The P. M. Company renders the following statement, to be filed in the department of state of the State of New Jersey:

The principal office of the company is at No. — Montgomery street, Jersey City, New Jersey.

The principal office of the company in New Jersey is at Jersey City.

The business of the company is that of manufacturing and selling cotton fabrics [*or, as the case may be*].

At an election held at Jersey City on the third day of January, eighteen hundred and eighty-one, the following-named persons were chosen directors, as noted :

[NOTE.—First name those chosen at this election ; then name those holding over, saying, "And the following hold over." If no election shall have been held on the day fixed by law, say, "No election having been held, the following directors, hitherto chosen, hold over."]

NAME.	P. O. ADDRESS.	TERM.	EXPIRATION OF TERM.

The officers of the company are :

President, A. B.

Secretary, C. D.

Vice-President, G. H.

Treasurer, E. F.

2d Vice-President, I. K.

3d Vice-President, L. M.

Dated January 3, 1881.

The foregoing statement is correct and true.

Attest: C. D., Secretary.

A. B., President.

XXVIII. Certificate of increase of capital.

[For provisions concerning increase, see section 194. See, also, sections 24, 116, 143, 193.]

This is to certify that The Palisades Manufacturing Company proposes to increase its capital stock by adding thereto one hundred thousand dollars, divided into one thousand shares of one hundred dollars each, making the entire capital stock of said company two hundred thousand dollars, that amount having been determined by the board of directors of said company at a meeting held August first, eighteen hundred and eighty-nine, to which increase stockholders owning at least two-thirds in value of the existing capital stock of said company have assented.

In witness whereof this certificate is signed by the president of said company, and its corporate seal is hereto affixed, and attested by its secretary, the fifth day of August, A. D. eighteen hundred and eighty-nine.

A. B., President. [L. s.]

Attest: C. D., Secretary.

We, the subscribers, stockholders owning at least two-thirds in value of the existing capital stock of The Palisades Manufacturing Company, do hereby assent to the proposed increase of said capital stock to two hundred thousand dollars, the amount determined by the board of directors of said company at a meeting held August first, eighteen hundred and eighty-nine.

Dated August 2, 1889.

[Signatures of stockholders.]

[Add affidavit of secretary, or other person verifying the signatures, and proving the regularity of the proceedings required by the statute.]

XXIX. Certificate relative to the issue of additional capital stock.

[Vide section 220. This form is supplied by the secretary of state.]

The P. M. Company, a corporation of the State of New Jersey, hereby certifies:

FIRST. The original authorized capital stock of said company is one hundred thousand dollars, and the total amount issued is sixty thousand dollars.

SECOND. In accordance with the provisions of "An act concerning corporations" [Revision], approved April 7, 1875, the said company determined, on the first day of November, 1891, that an additional issue of the capital stock of said company should be made to the amount of twenty thousand dollars.

THIRD. The certificate authorizing such increase is the original certificate of organization of the said company, dated January 3, 1891, filed in the department of state, on the fourth day of January, A. D. 1891.

FOURTH. In accordance with the provisions of chapter 177 of the laws of New Jersey of 1891, the board of directors of said company, on the first day of November, 1891, determined to issue two hundred shares of said increased capital stock, the par value of each share being one hundred dollars, the total increase twenty thousand dollars, and the total amount of stock issued, including said increase, eighty thousand dollars.

In witness whereof this certificate is signed by the president of said company, and its corporate seal is hereto

[L. S.] affixed, and attested by its secretary, the first day of December, A. D. eighteen hundred and ninety-one.

A. B., President.

Attest: R. S., Secretary.

XXX. Certificate of reduction of capital, and change of nature of business.

[For the proceedings, see section 33. See, also, sections 117, 120, 169.]

We [name the president, secretary, treasurer and directors, as in above certificate], of The P. M. Company, do hereby certify that at a meeting of the stockholders of said company, duly called for that purpose, held on the . . . day, etc., at the company's office in Jersey City, it was resolved, by the vote of more than two-thirds in interest of said stockholders:

FIRST. That the capital stock of said company be reduced to fifty thousand dollars, by calling in one-half the shares held by each shareholder and paying the par value thereof and canceling and retiring the same [or, by reducing the par value of each share to fifty dollars, or, as the case may be].

SECOND. That the company change the nature of its business in the following particulars: [*set forth, fully, the proposed change.*]

Witness our hands, etc.

[*Signatures.*]

[*Acknowledgment as in form III.*]

XXXI. Assent to change of par value of shares.

[For proceedings, see section 118.]

We, the subscribers, being stockholders of The Palisades Manufacturing Company, representing two-thirds in value of the capital stock for the time being of the said company, do hereby give our assent to the changing the par value of the said shares of said company from one hundred dollars to fifty dollars.

Witness our hands this, etc.

A. B., ten shares.

C. D., twenty shares

[*Signatures of all assenting.*]

XXXII. Certificate of change of par value of shares.

We, the subscribers, being stockholders of The Palisades Manufacturing Company, representing two-thirds in value of the capital stock of said company, do hereby certify that the said company is about to change the par value of its shares from one hundred dollars to fifty dollars per share.

Witness our hands and seals the, etc.

A. B., ten shares. [L. s.]

C. D., twenty shares. [L. s.]

[*Signatures of all assenting.*]

[*Acknowledgment of proof as in forms III. and IV.*]

XXXIII. Certificate of removal of principal office.

[Laws of 1880, p. 49, *supra* 125.]

The Palisades Manufacturing Company, a corporation of the State of New Jersey, doth hereby certify:

FIRST. That the name of the said corporation is The Palisades Manufacturing Company, and its principal office has heretofore been located [*or, was located by its charter*] at Jersey City, in the county of Hudson.

SECOND. That the said corporation is about to locate its principal office for its business and dealings at the city of Newark, in the county of Essex, in the place and stead of that referred to in the foregoing paragraph.

In witness thereof the said corporation hath caused the official seal of its board of directors, being also its common seal, to be hereto affixed, and this certificate to be signed by a majority of said board, the..... day of, etc.

[L. s.]

A. B., }
C. D., } Directors.
E. F., }

STATE OF NEW JERSEY, ss.

R. S., secretary of The Palisades Manufacturing Company, being duly sworn, on his oath says, that the foregoing certificate is made by the authority of the board of directors of said company, as expressed by a two-thirds vote of the members present at a special [or, regular] meeting of said board called for that purpose.

Sworn to, etc.

R. S.

XXXIV. Certificate changing the name of a corporation.

[For proceedings, see sections 114, 115, *supra*.]

The Palisades Manufacturing Company doth hereby certify that at a special [or, regular] meeting of the directors of said company, called for the purpose, the said board, by a two-thirds vote, resolved to change the name of said company as hereinafter specified; and to that end the said company doth certify and set forth:

I. That the name of said corporation in use immediately preceding the said vote and the making of this certificate was "The Palisades Manufacturing Company."

II. The name assumed to designate said corporation and to be used in its business and dealings, in the place and stead of that mentioned in the foregoing paragraph, is "The Highland Company."

In witness whereof the said company hath caused the official seal of said board, being also its common seal, to be hereto affixed, and these presents to be signed by a majority of its boards of directors.

[L. s.]

A. B.,
C. D., } Directors.
E. F., }

STATE OF NEW JERSEY, }
COUNTY OF HUDSON, } ss.

R. S., secretary of The Palisades Manufacturing Company, being duly sworn, on his oath says, that the foregoing certificate is made by authority of the board of directors of The Palisades Manufacturing Company, as expressed by a two-thirds vote of the members present at a special [or, regular] meeting of said board, called for that purpose.

Sworn, etc.

[Signature.]

XXXV. Certificate to extend existence of corporation.

[For proceedings, see sections 109, 110.]

This is to certify that The Palisades Manufacturing Company desires that the period of its existence, as such corporation, shall be extended for a term of fifty years from the . . . day of . . . , A. D. eighteen hundred and . . . , being the day on which the period of its existence named in its certificate of organization will expire.

In witness whereof the said company hath caused its common seal to be hereto affixed, and attested by the signature of its president, the first day of June, A. D. eighteen hundred and eighty-two.

[L. s.]

A. B., President.

Attest : R. S., Secretary.

XXXVI. Dissolution. Resolution of directors.

[For proceedings, sections 34, 113.]

Resolved, That in the judgment of this board it is advisable and most for the benefit of The P. M. Company that the same should be forthwith dissolved, and to that end it is ordered that a meeting of the stockholders be held on Monday, the first day of, etc., at twelve o'clock noon, at the office of the company in Jersey City, to take action upon this resolution; and further, that the secretary forthwith give notice of said meeting, and of the adoption of this resolution, within ten days from this date, by publishing the said resolution, with a notice of its adoption, in the . . . , a newspaper published in Jersey City, for at least four weeks, once a week, successively, and by mailing a written or printed copy of the same to each and every stockholder of this company in the United States.

XXXVII. Consent of stockholders to dissolution.

Whereas, on the tenth day of, etc., the directors of The P. M. Company, by a majority vote of the whole board, at a meeting called for that purpose, of which meeting every director received at least three days' notice, did adopt a resolution in the words or to the effect following, to wit: [*Recite the resolution at length.*] And whereas, the secretary of the said company did give notice of the meeting of stockholders called by said resolution, as required by law and the said resolution;

Now, therefore, we, the subscribers, being more than two-thirds in interest of all the stockholders, being met together in pursuance of said resolution and notice, do hereby consent that the said company be forthwith dissolved as proposed in said resolution.

Witness our hands this, etc.

A. B., ten shares.

Attest: R. S., Secretary.

C. D., twenty shares.

[*The signatures of all consenting should be affixed.*]

STATE OF NEW JERSEY, }
COUNTY OF HUDSON, } ss.

R. S., being duly sworn, on his oath says, that he is the secretary of The P. M. Company; that he saw A. B., C. D. [*recite the names of all the stockholders consenting*], being more than two-thirds in interest of the stockholders of said company, at a meeting duly called for the purpose as above recited, sign the foregoing certificate of consent as their voluntary act and deed, and that deponent at the same time subscribed the same as attesting witness; and deponent further says, that on the . . . day of, etc., he mailed a printed copy of the resolution above recited, with a notice of the adoption thereof, to each and every stockholder of said company residing in the United States, and also caused the same to be duly published as required by the said resolution; and deponent further says, that the said resolution of the board of direct-

ors was duly adopted upon lawful notice, as in the above certificate recited.

Sworn and subscribed, etc.

R. S.

[Here should be added an affidavit of the publication of the notice, made by the publisher of the newspaper in which it was printed.]

XXXVIII. List of directors and officers at time of dissolution.

As required by an act of the legislature of New Jersey, approved February twenty-first, eighteen hundred and seventy-seven, the board of directors of The P. M. Company render the following statement, to be filed in the department of state of the State of New Jersey:

The principal office of the company is at No. street, Jersey City, New Jersey.

The following is a list of the names and residences of the now existing board of directors of said company, with its officers:

[Here insert the names and residences of the directors.]

The officers of the company are :

President, A. B.

3d Vice-President, G. H.

Vice-President, C. D.

Secretary, R. S.

2d Vice-President, E. F.

Treasurer, T. L.

Dated, etc.

The foregoing statement is correct and true.

Attest: R. S.,

A. B.,

Secretary.

President.

XXXIX. Certificate of dissolution.

STATE OF NEW JERSEY }
DEPARTMENT OF STATE. }

To all to whom these presents may come, greeting:

Whereas, in the judgment of the board of directors of The P. M. Company, a corporation organized under the laws of this state, it has been deemed advisable and most for the benefit of such corporation that the same shall be dissolved before the expiration of the time limited in its certificate of incorporation, as appears by a duly authenticated record of the proceedings of said board of directors of such corporation, held in accordance with the provisions of an act entitled "An act concerning corporations," approved April seventh, eighteen hundred and seventy-five, and the several supplements thereto, which said record, including the consent in writing of "two-thirds in interest of all the stockholders" of said corporation that such dissolution should take place, as by said act required, having been by said corporation deposited in my office ;

Now, therefore, I, H. C. K., secretary of state of the State of New Jersey, being satisfied by due proof that the requirements of "An act concerning corporations," approved April seventh, eighteen hundred and seventy-five, and the supplements thereto,

relative to the dissolution of corporations, have been fully complied with by the said corporation, do hereby certify that 'The P. M. Company did, on the.....day of, etc., file in my office a duly executed and attested certificate of consent to the dissolution of said corporation by two-thirds in interest of all the stockholders thereof, which said certificate of consent, and the record of the proceedings aforesaid, are now on file and of record in my said office, as provided by law.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Trenton, this.....day
[L. S.] of....., A. D. eighteen hundred and eighty.

H. C. K., Secretary of State.

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APPENDIX.

SUPPLEMENTS AND AMENDMENTS ^{C†}

PASSED AT THE

SESSIONS OF 1892 and 1893

OF

THE NEW JERSEY LEGISLATURE,

TO

AN ACT CONCERNING CORPORATIONS

APPROVED APRIL 7TH, 1875,

BEING

AN APPENDIX TO THE SEVENTH EDITION

OF

CORBIN'S NEW JERSEY CORPORATION ACT.



JERSEY CITY, N. J.:

FREDERICK D. LINN & COMPANY.

1893.

NOTE.—In the following pages the first eleven paragraphs are numbered 24, 30, 31, 33, 114, 157, 158, 159, 160, 161 and 180, to correspond with the numbers of the sections in the pamphlet known as “Corbin’s New Jersey Corporation Act,” of which this Appendix gives the revised and amended reading. The remaining numbers, 221, 222, 223, &c., are arbitrarily added by the editor to constitute a continuation of the numbers in the pamphlet.

APPENDIX.

24. Repealed.

[Supplement of March 21, 1893, ch. 254.]

Section twenty-four of the act entitled "An Act Concerning Corporations" (Revision), approved April seventh, eighteen hundred and seventy-five, be and the same is hereby repealed.

30. When capital is fully paid up Certificate to be filed in Department of State.

[As amended by Section 8 of supplement of March 21, 1893. *P. L., ch. 254.*]

The president and the secretary or treasurer of such company, after the payment of the last installment of the total amount of capital stock as authorized by its certificate of incorporation, shall make a certificate stating the amount of the capital so authorized and paid in, which certificate shall be signed and sworn to or affirmed by the president and secretary or treasurer; and they shall within ten days thereafter cause the same to be filed in the department of state.

31. When increase of capital is fully paid up, Certificate to be filed.

[As amended by Section 9 of supplement of March 21, 1893. *P. L., ch. 254.*]

If any of the said companies shall increase their capital stock as provided by this act or any supplement thereto the officers mentioned in the preceding section, after the payment of the last installment of such additional stock, shall make a certificate of the amount so added and paid in and sign and swear to or affirm the same, and cause it to be filed in the manner provided in the preceding section.

33. Company may change the nature of its business.

[As amended by Section 10 of supplement of March 21, 1893. *P. L., ch. 254.*]

Every such company may, by a vote of two-thirds in interest of the stockholders, in person or by proxy, at any meeting called for that purpose, change the nature of its business; and in such case a certificate of the proceedings, signed by the president and secretary under the corporate seal of the company, reciting that the assents of the said stockholders have been given, and

also the change of the nature of its business shall be filed in the department of state within ten days after the meeting of the stockholders as aforesaid, and a certified copy of said certificate by the secretary of state shall be taken and accepted as evidence in any court of this state.

114. Any corporation may change its name.

[Supplement of February 21, 1877 as amended by Section 7 of supplement of March 21, 1893. P. L. ch. 254].

It shall be lawful for any corporation existing under and by virtue of the laws of this State, whether created by special charter or otherwise, to change its corporate name by a two-thirds vote of the board of directors or managers of such corporation, who shall be present at a regular or special meeting called for that purpose; *provided*, that the corporation cause to be made and filed a certificate in writing in manner hereinafter mentioned; such certificate in writing shall set forth:

I. The name of such corporation in use immediately preceding the vote, and making and filing the said certificate;

II. The name assumed to designate such corporation and to be used in its business and dealings in the place and stead of that referred to in the last preceding paragraph, and which said certificate shall be signed by the board of directors, or a majority of said board, and recorded, in pursuance of the act to which this is a supplement, in the office of the clerk of the county where the principal office or place of business of such corporation in this state shall be established; and after being so recorded shall be filed in the office of the secretary of state; and to which certificate shall be affixed the official seal of said board and the affidavit of the secretary or acting secretary of such corporation, that the said certificate is made by the authority of the board of directors or managers of such corporation, as expressed by a two-thirds vote of the members present at a regular or special meeting of said board called for that purpose.

157. Franchise tax to be laid upon telegraph and certain other companies.

[“An Act to provide for the imposition of state taxes upon certain corporations and for the collection thereof,” approved April 18th, 1884, section 1, as amended by act of March 17th, 1892. P. L. 1892, ch. 76.]

Every telegraph, telephone, cable or electric light company, every express company, not owned by a railroad company and

otherwise taxed, every gas company, palace or parlor or sleeping car company, every oil or pipe line company, every life insurance company incorporated under the laws of this state, and every fire, marine, live stock, casualty or accident insurance company, doing business in this state, except mutual fire insurance companies which do not issue policies on the stock plan, shall pay an annual tax, for the use of the state, by way of a license for its corporate franchise, as hereinafter mentioned; *provided, however*, that no company or society shall be construed to be a life insurance company doing business in this state within the purview of this act, which, by its act or certificate of incorporation, shall have for its object the assistance of sick, needy or disabled members, the defraying funeral expenses of deceased members, and to provide for the wants of the widows and families of members after death.

158. Annual reports by certain companies to state board of assessors.

[Section 2, as amended by act of March 17th, 1892. P. L. 1892, ch. 76.]

On or before the first Tuesday of May next, and annually thereafter, it shall be the duty of the president, treasurer or other proper officer of every corporation of the character specified in the preceding section, to make report to the state board of assessors, appointed and to be appointed under the act entitled "An act for the taxation of railroad and canal property," stating specifically the following particulars, namely: each telegraph, telephone, cable and express company, not owned by a railroad company and otherwise taxed, shall state the gross amount of its receipts from business done in this state for the year preceding the first day of January prior to the making of such report; each gas company and electric light company shall state the amount of its receipts for light or power supplied within this state for the year preceding the first day of February prior to the making of such report, and the amount of dividends declared or paid during the same time; each parlor, palace or sleeping car company shall state the gross amount of its receipts for fare or tolls for transportation of passengers within this state during the same time; each oil or pipe line company engaged in the transportation of oil or crude petroleum shall state the gross amount of its receipts from the transportation of oil or petroleum through its pipes or in and by its tanks or cars in this state during the same time; each fire, marine, live stock, casualty or accident insurance company shall

state the total amount of premiums received by it for insurance upon the lives of persons resident or property located within this state, during the same time.

159. Penalties for false statement, or neglect to make statement.

[Section 3, as amended by act of March 17th, 1892. *P. L.* 1892, *ch.* 76.]

If any officer of any company required by this act to make a return, shall, in such return, make a false statement, he shall be deemed guilty of perjury; if any such company shall neglect or refuse to make such return within the time limited as aforesaid, the state board of assessors shall ascertain and fix the amount of the annual license fee or franchise tax and the basis upon which the same is determined, in such manner as may be deemed by them most practicable, and the amount fixed by them shall stand as such basis of taxation under this act.

160. Amount of franchise tax to be paid by certain companies.

[Section 4, as amended by act of March 16th, 1891, (*P. L.*, p. 150), and further amended by act of March 17th, 1892. *P. L.* 1892, *ch.* 76.]

Each telegraph, telephone, cable and express company shall pay to the state an annual license fee or franchise tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained; that each gas company and electric light company shall pay to the state an annual license fee or franchise tax at the rate of one-half of one per centum upon the gross amount of its receipt so returned or ascertained, and five per centum upon the dividends in excess of four per centum so paid or declared by said company; that each oil or pipe line company shall pay to the state an annual licence fee or franchise tax at the rate of eight-tenths of one per centum upon the gross amount of its receipts so returned or ascertained; that each insurance company other than life shall pay to the state an annual license fee or franchise tax at the rate of one per centum upon the gross amount of its premiums so returned or ascertained; that each life insurance company incorporated under the laws of this state shall pay to the state an annual license fee or franchise tax of one per centum upon the amount of its surplus on the thirty-first day of December next preceding the time of such payment, as fixed in section five, and in addition thereto a further annual license fee or franchise tax of thirty-five one-hundredths of one per centum upon the total gross insurance

premiums collected by such companies of this state during the year ending December thirty-first next preceding; *provided*, that any taxes, or charges in lieu of taxes, that may hereafter be collected by this state from life insurance companies of other states shall be credited in rebate of the taxes hereby imposed on companies of this state, in proportion to the several amounts payable by the several companies of this state under this act; the commissioner of banking and insurance shall ascertain and report to the state board of assessors all facts necessary to enable the said board to ascertain and fix the amount of taxation to be paid by life insurance companies under this act, and shall ascertain and report to said board the amount of rebate to be allowed to said companies as herein provided, and shall also certify to each of said companies the amount of such taxation and the rebate allowed under this act; that each parlor, palace or sleeping car company shall pay to the state an annual license fee or franchise tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained; if any oil or pipe line company has part of its transportation line in this state and part thereof in another state or states, such company shall return a statement of its gross receipts for transportation of oil or petroleum over its whole line, together with a statement of the whole length of its line and the length of its line in this state; such company shall pay an annual license fee or franchise tax to the state at the aforesaid rate upon such proportion of its said gross receipts as the length of its line in this state bears to the whole length of its line; that all other corporations incorporated under the laws of this state, and not hereinbefore provided for, shall make annual return to the state board of assessors of such information as may be required by said board to carry out the provisions of this act, and shall pay an annual license fee or franchise tax of one-tenth of one per centum on all amounts of capital stock issued and outstanding up to and including the sum of three million dollars; on all sums of capital stock issued and outstanding in excess of three million dollars and not exceeding five million dollars, an annual license fee or franchise tax of one-twentieth of one per centum, and the further sum of fifty dollars per annum per one million dollars, or any part thereof, on all amounts of capital stock issued and outstanding in excess of five million dollars; *provided*, that this act shall not apply to

railway, canal or banking corporations, or to savings banks, cemeteries or religious corporations, or to purely charitable or educational associations, or manufacturing or mining corporations, at least fifty per centum of whose capital stock issued and outstanding is invested in mining or manufacturing carried on within this state; if any manufacturing or mining company, carrying on business in this state shall have less than fifty per centum of its capital stock, issued and outstanding, invested in business carried on within this state, such company shall pay the annual license fee or franchise tax herein provided for companies not carrying on business in this state, but shall be entitled, in the computation of such tax, to a deduction from the amount of its capital stock issued and outstanding of the assessed value of its real and personal estate so used in manufacturing or mining.

161. Proceedings of state board of assessors.

[Section 5, as amended by act of March 17th, 1892. P. L. 1892 ch. 76].

SEC. 1. The state board of assessors shall certify and report to the comptroller of the state, on or before the first Monday of June in each year, a statement of the basis of the annual license fee or franchise tax as returned by each company to or be ascertained by the said board, and the amount of tax due thereon respectively, at the rates fixed by this act; such tax shall thereupon become due and payable, and it shall be the duty of the state treasurer to receive the same; if the tax of any company remains unpaid on the first day of July, after the same becomes due, the same shall thenceforth bear interest at the rate of one per centum for each month until paid; the state board of assessors shall have power to require of any corporation subject to tax under this act, such information or reports touching the affairs of such company as may be necessary to carry out the provisions of this act; and may require the production of the books of such company, and may swear and examine witnesses in relation thereto; the comptroller shall receive as compensation for his services under this act entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eighty-four, the sum of five hundred dollars annually.

SEC. 6. All acts and parts of acts inconsistent herewith be

and the same are hereby repealed, in so far as the same are inconsistent herewith.

Sec. 7. This act shall take effect immediately.

180. Amended certificate to cure defects in organization.

[Supplement of April 9th, 1887, as amended by supplement of March 29th, 1892. P. L. 1892, ch. 226. See sections 11, 126, 146.

Sec. 1. Whenever the original certificate of incorporation, filed by an association under any general law of this state for the formation of incorporated companies, is defective by reason of the omission of any matter authorized or required by law to be therein stated, or by reason of the object or objects therein expressed, in whole or part, being for a purpose or purposes not contemplated or recited in such general law in existence at the time of filing such original certificate, it shall be lawful for all the stockholders of such association, or the legal representatives of any deceased stockholders, to make a certificate under their hands and seals, acknowledged or proved as required for deeds of real estate, setting forth a copy of the original certificate, the time and place of recording and filing the same, and reciting the omission or defective objects of incorporation as expressed in said original certificate, and supplying such omission or the true object desired by such association for the purpose or purposes of such incorporation; the same to be of the nature or character authorized by the act to which this is a supplement, and the supplements thereto and acts amendatory thereof; which said association, upon causing said certificate to be recorded in the office of the clerk of the county where the original certificate was recorded, which said certificate the clerk is hereby authorized to record, and file in the office of the secretary of state, shall be deemed and taken to be, and to have been a legal corporation for the objects stated in said certificate, to be recorded and filed from the time of filing such original certificate; *provided, however*, that this act shall not in any manner affect any proceedings pending in any court.

Sec. 2. All acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

221. Stock or shares may be increased or decreased and name changed all in one certificate.

[supplement of January 26th, 1892. P. L. 1892, ch. 2.]

Sec. 1. Any corporation of this state, incorporated under any

general law of this state, may, in one certificate, change the name of said corporation, increase or decrease the amount of the capital stock of said corporation, increase or decrease the number of shares of the capital stock of said corporation, and increase or decrease the par value of each of said shares of the capital stock of said corporation, thus making any or all of said changes in said one certificate.

222. Assent of directors and stockholders necessary to such change

SEC. 2. In order to avail themselves of the powers conferred by section one of this act, it shall be necessary to obtain the assent, in writing, of the stockholders representing two-thirds in value of the existing capital stock of said corporation, and the assent of the board of directors given at a general meeting, or a special meeting called for that purpose, and expressed by a majority vote of all the directors of said board.

223. Certificate and affidavit of such changes.

SEC. 3. A certificate, reciting these assents, executed by such officers of the company as shall be determined by a resolution of said board of directors, and under the seal of the said company with an affidavit of the secretary of said company that the seal of the company thereto attached is the seal of said company and that the officers executing said certificate are the officers of said corporation, as expressed therein, shall be recorded in the office of the clerk of the county where the principal office of said company is located, and thereafter filed in the office of the secretary of state, which recording shall be done within thirty days after the execution of said certificate.

224. On filing certificate change effected.

SEC. 4. Upon the filing of said certificate in the office of the secretary of state the name of the corporation shall be changed as therein stated, the amount of the capital stock, the number of shares of the capital stock and the par value of each of said shares of stock shall thereafter be as stated therein, and a certified copy of said certificate by the secretary of state shall be taken and accepted as evidence of such changes in any court of this state.

225. Fee of twenty dollars on filing certificate of changes.

SEC. 5. On filing said certificate with the secretary of state, the corporation filing the same shall pay to the secretary of

state twenty dollars for each change made as aforesaid in said one certificate, the same as if a separate certificate had been filed for each of said changes set forth in said certificate.

SEC. 6. This act shall take effect immediately.

226. Powers of president and directors upon dissolution.

[Supplement of February 24th, 1892. P. L. 1892, ch. 22.]

Upon the dissolution of any corporation organized under the act to which this is a further supplement, or any amendment or supplement thereto, the president and directors, acting as trustees to settle the affairs of said corporation, shall, in cases not already provided for by law, have power to meet and act under regulations to be fixed and determined upon by a majority of said trustees, and shall have power to determine when and how and where the property, real or personal, of said corporation shall be sold, whether in parcels or as a whole, and shall sell all or any part for cash, or partly on credit, or take mortgages, not exceeding fifty per centum of the purchase price, secured by bonds, for part of the purchase price for all or any of said property, and to fix the terms and conditions of the sale of all or any part of said property.

227. When directors fail to meet stockholders may act in their place.

[Supplement of March 10th, 1892. P. L. 1892, ch. 24.]

SEC. 1. Whenever, by the reason of the failure, neglect or refusal of a sufficient number of the board of directors of any corporation of the state to attend any three successive meetings of such board, regular or special, duly called, a quorum is thereby prevented, the stockholders of said company shall thereupon, and until a legal meeting of a quorum of such board of directors shall be held, have power to act in place of such board of directors, and for such purpose special meetings of the stockholders of said company may be called by any officer of the company, or by any three stockholders of the company, upon three days' notice mailed to each of said stockholders at his address as the same appears upon the books of the company, at which meetings it shall be lawful for the said stockholders to take such action, by a majority vote, in reference to the business of the said company as they may deem advisable, and their action thus taken shall be legal and binding upon the company.

SEC. 2. All acts and parts of acts inconsistent herewith be and

the same are hereby repealed, and that this act shall take effect immediately.

228. Not necessary for more than one director to reside in New Jersey.

[An act relative to the residence of directors of corporations in this state, approved March 10th, 1892. P. L. 1892, ch. 55.]

It shall not hereafter be necessary for more than one director of any company, corporation or association, incorporated under the laws of this state by special or general acts of incorporation, to reside in New Jersey.

229. Any New Jersey corporation may conduct its business outside the state.

[An act concerning corporations, approved March 10th, 1892. P. L. 1892, ch. 56.]

SEC. 1. It shall be lawful for any corporations of this state, incorporated under any general or special act, to carry on and conduct its business outside of the State of New Jersey, although not provided for in the act or certificate of incorporation of any such corporation; *provided, however*, such corporation shall have an office in the State of New Jersey.

SEC. 2. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

230. Remedies when issue of new certificate of stock is refused in lieu of one lost.

[Supplement of March 22d, 1892. P. L. 1892, ch. 89.]

SEC. 1. Whenever any company incorporated under the laws of this state, or of the United States, if located and existing in this state, shall have refused to issue a new certificate of stock in place of one theretofore issued by it, or by any corporation of which it is the lawful successor, but which is alleged to have been lost or destroyed, the owner of such lost or destroyed certificate, or his legal representatives, may apply to the circuit court of the county in which the principal office of said company is located for an order requiring such corporation to show cause why it should not be required to issue a new certificate of stock in place of the one so lost or destroyed; such application shall be by petition, duly verified by the owner, in which shall be stated the name of the corporation, the number and date of the certificate, if known, or can be ascertained by the petitioner, the number of shares of stock named therein and to whom issued, and as particular a statement of the circumstances at-

tending such loss or destruction as such petitioner shall be able to give; upon the presentation of said petition, said court shall make an order requiring said corporation to show cause, at a time and place therein mentioned, why it should not be required to issue a new certificate of stock in place of the one described in said petition; a copy of said petition and of said order shall be served upon the president or other head of such corporation, or on the cashier, secretary or treasurer thereof, personally, at least ten days before the time designated in said order for showing cause.

Sec. 2. At the time and place specified in said order, and on proof of due service thereof, the said court shall proceed in a summary manner and in such mode as it may deem advisable to inquire into the truth of the facts stated in said petition, and shall hear such proof and allegations as may be offered by or in behalf of the petitioner, or by or in behalf of said corporation or other party, relative to the subject-matter of said inquiry, and if, upon such inquiry, said court shall be satisfied that such petitioner is the lawful owner of the number of shares of the capital stock, or any part thereof, described in said petition, and that the certificate therefor has been lost or destroyed and cannot, after due diligence, be found, and that no sufficient cause has been shown why a new certificate should not be issued in place thereof, it shall make an order requiring said corporation or other party, within such time as shall be therein designated, to issue and deliver to such petitioner a new certificate for the number of shares of the capital stock of said corporation which shall be specified in said order as owned by said petitioner, and the certificate for which shall have been lost or destroyed; in making such order the court shall direct that said petitioner deposit such security, or file such a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner who shall thereafter appear to be the lawful owner of such certificate stated to be lost or stolen; and the court may also direct the publication of such notice, either preceding or succeeding the making of such final order, as it shall deem proper; any person or persons who shall thereafter claim any rights under said certificate so alleged to have been lost or destroyed, shall have recourse to said indemnity and the said corporation shall be discharged of and from all

liability to such person or persons by reason of compliance with the order aforesaid; and obedience to said order may be enforced by said court by attachments against the officer or officers of such corporation, on proof of his or their refusal to comply with the same.

231. Modified certificate of organization may be filed with governor's consent.

[Supplement of January 26th, 1892, ch. 1. as amended by supplement of March 26th, 1892, ch. 145.]

It shall be lawful for any corporation existing under and by virtue of any general act for the formation of incorporated companies in this state, with the assent of a majority in interest of its stockholders, at a special meeting to be called for that purpose, and with the approval of the governor, at any time within five years from the date of its incorporation, to record with the clerk of the county in which its original certificate of incorporation was recorded, and file with the secretary of state an amended certificate, duly signed by its president, and attested by its secretary under its corporate seal, and duly acknowledged or proved as required for deeds of real estate, modifying, changing or altering its original certificate of incorporation, in whole or in part, which said amended certificate shall take the place of the original certificate of incorporation, and shall be deemed to have been filed and recorded on the date of the filing and recording of the original certificate; *provided, however*, that nothing herein shall permit the insertion of any matter not in conformity with the law under which such company was or shall have been organized; *and provided, further*, that nothing herein shall affect any suit or proceeding, at the time of filing such amended certificate, pending by or against said corporation, or impairing any rights of action accrued by or against its stockholders, corporators or directors; *and provided, further*, that the total authorized capital stock of any such corporation shall not be increased or decreased in the amended certificate herein provided for.

232. Consolidation in cities of second class of light, heat and power companies heretofore organized.

["An act relating to the consolidation of corporations, organized as gas light companies, electric light companies, and electric light, heat and power companies, in cities of the second class in this state, which heretofore have been incorporated under general or special laws of this state," approved April 7th, 1892. P. L. 1892, ch. 257.]

SEC. 1. It shall and may be lawful for any corporation or corporations of this state, incorporated under general or special

laws, whose object is to make and sell gas, for the purpose of lighting the streets, buildings and other places in cities of the second class in this state where such companies are now established, and any corporation or corporations of this state in said cities whose objects are the manufacturing, generating, storing, dealing in, furnishing and supplying of electricity for light, heat and power, and also carrying on of any and all business in connection therewith, and concerning the sale and supply of the said light, heat and power to persons desiring to purchase the same, and of selling and dealing in appliances necessarily used in connection with the same and pertaining thereto, to consolidate and merge such companies in said cities and their corporate rights, franchises, powers and privileges, into a single corporation in the manner following, so that by virtue of this act such corporations in said cities will be consolidated and merged into one company, and so that all the property, rights, franchises and privileges by law vested in or enjoyed by such corporations so merged shall be transferred to and vested in the new corporation into which said consolidation and merger shall be made.

SEC. 2. Such consolidation and merger of said corporations shall be made in the same manner as provided for the consolidation and merger of certain corporations of this state by an act of the legislature of this state entitled "An act relating to the consolidation of corporations formed under the act entitled 'An act concerning corporations,' approved April seventh, one thousand eight hundred and seventy-five, and the acts amending and supplementing the same, for the purpose of the improvement and sale of lands, the construction, maintenance and operation of hotels and carrying on the business of an innkeeper, and the transportation of goods, merchandise or passengers upon land or water," which said act was approved April seventeenth, one thousand eight hundred and eighty-eight.

SEC. 3. Such consolidated company and all its real estate, franchises and other property shall be subject to taxation and shall be assessed in the manner provided by law from time to time for the taxation and the assessment of the real estate, franchises and other property of such corporations, and shall pay such tax as is or may be imposed upon its property and franchises; and shall pay an annual tax for the use of the state by way of a license for its corporate franchises, the same as if such

consolidation had not been made. The intent being that the revenue to be paid to the state shall not be diminished in any way, but shall be at least as great as if paid by said companies separately before consolidation.

SEC. 4. All acts or parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

233. Manufacturing company specially incorporated may exchange paid-up stock for assessable shares, &c.

[“An act to empower any manufacturing company incorporated by special act of incorporation of this state to exchange any portion of its paid-up stock for assessable shares and for preferred shares and common shares in lieu thereof,” approved April 8th, 1892. *P. L.* 1892, ch. 264.]

SEC. 1. It shall and may be lawful for any manufacturing company duly incorporated by special act of incorporation of this state, to exchange any portion of its full paid capital stock, by and with the consent of the holders thereof, for assessable shares, which shall acknowledge the payment in the aggregate of the same amount of money as may be represented by the full paid shares so surrendered; and the directors of the said company may call from time to time for installments on the said assessable shares until the same shall be fully paid, and the directors of any such company may, with the consent of all the stockholders thereof first had and obtained in writing, issue any portion of its capital stock in preferred shares bearing a fixed rate of dividend not exceeding eight per centum per annum, which shares shall be subjected to redemption and retirement upon such conditions as may be expressed in the certificates of said stock; and the said directors may use the said preferred shares at par, or the proceeds thereof, to provide additional capital or to pay the debts of the said corporation; it shall be lawful for the said directors, in their discretion, to make an issue of shares of common stock equal in number to the preferred shares so issued, which common stock shall be subject to assessment from time to time by the directors of the said company for the redemption and retirement of the said preferred stock in accordance with the provisions thereof, or for the general uses of the said company; *provided always*, that any stock of any company which may at any time have been retired or surrendered may be re-issued at par for money or in payment of debts; *and provided further*, that at no time shall the total amount

of the capital stock outstanding at any one time exceed the amount authorized by law.

SEC. 2. Whenever any additional stock shall be issued, or any stock shall be retired or re-issued, a certificate thereof shall be filed in the office of the secretary of state, showing the total amount of stock outstanding at the date of the filing of such certificate.

234. Corporations conducting similar business may merge and consolidate.

[An Act to authorize corporations incorporated under laws of this State to merge and consolidate their corporate franchises and other property. Approved March 8th, 1893. P. L., ch. 67.]

SEC. 1. Any two or more corporations organized or to be organized under any law or laws of this state for the purpose of carrying on any kind of business of the same or a similar nature may merge or consolidate such corporations into a single corporation, which may be either one of said merging or consolidating corporations, or a new corporation to be formed by means of such merger and consolidation.

235. Method and terms of merger and consolidation.

SEC. 2. The said consolidation or merger shall be made under the conditions, provisions, restrictions, and with the powers hereafter in this act mentioned and contained, that is to say :

I. The directors of the several corporations proposing to merge or consolidate may enter into a joint agreement under the corporate seals of the respective corporations, for the merger or consolidation of said corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation (if one shall be so formed or created), or of the consolidated corporation, as the case may be ; the number, names and places of residence of the first directors and officers of such new or consolidated corporation (who shall hold their offices until their successors shall be chosen or appointed, either according to law, or according to the by-laws of the said corporation); the number of shares of the capital stock, whether common or preferred, and the amount or par value of each share of such new or consolidated corporation ; and the manner of converting the capital stock of each of said merging or consolidating corporations into the stock or obligations of such new or consolidated corporation, and in case of the creation of a new corporation, how and when the directors

and officers shall be chosen or appointed; together with all such other provisions and details as such first mentioned directors shall deem necessary to perfect the merger or consolidation of said corporation.

II. The said agreement shall be submitted to the stockholders of each of said merging or consolidating corporations, separately, at a meeting thereof, to be called for the purpose of taking the same into consideration; and twenty days' notice of the time, place and object of such meeting shall be mailed to the last known post-office address of each of such stockholders respectively; and, at the said meetings of stockholders the said agreement of such directors shall be considered, and a vote of the stockholders of each corporation by ballot shall be taken separately, for the adoption or rejection of the same, each share of stock entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy; and if the votes of the holders of two-thirds of all the capital stock of each of the said merging or consolidating corporations shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretary of each of the respective corporations, under the seal thereof, and the agreement, so adopted and so certified, shall be filed in the office of the secretary of state, and shall from thence be deemed and taken to be the agreement and act of merger or consolidation of the said corporations, and a copy of said agreement and act of merger or consolidation, duly certified by the secretary of state under the seal thereof, shall be evidence of the existence of such new or consolidated corporation.

236. Filing of terms of merger and consolidation.

SEC. 3. Upon the making and perfecting the said agreement and act of merger or consolidation, as provided in the preceding section, and filing the same in the office of the secretary of state, as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation, by the name provided in said agreement (in case a new corporation shall be created thereby), or by the name of the consolidated corporation into which said other contracting corporation or corporations shall be so merged or consolidated, as the case may be, and possessing all the rights, privileges, powers and franchises, as well of a public as of private nature, and being subject to all the

restrictions, disabilities and duties of each of such corporations so merged or consolidated, except as altered by the provisions of this act.

237. Consolidated company invested with all powers and property of the constituent companies.

SEC. 4. Upon the consummation of said act of merger or consolidation, as aforesaid, all and singular, the rights, privileges, powers and franchises of each of said corporations, parties to the same, and all property, real, personal and mixed, and all debts due on whatever account, as well for stock subscriptions as all other things in action or belonging to each of such corporations, shall be deemed and taken without further act or deed to be transferred to and vested in the corporation into which such merger or consolidation shall have been made; and all property rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the said new or consolidated corporation as they were of the several and respective former corporations, parties to said agreement; and the title to any real estate, whether by deed or otherwise, under the laws of this state, vested in either of such corporations, shall not be deemed to revert or be in any way impaired by reason of this act; *provided, however*, that all rights of creditors and all liens upon the property of either of said former corporations shall be preserved unimpaired, and the respective former corporations may be deemed to continue in existence, in order to preserve the same; and all debts, liabilities and duties of either of said former corporations shall thenceforth attach to said new or consolidated corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

238. Shares of dissenting stockholders of public corporation to be taken by condemnation.

SEC. 5. Where the corporation or corporations authorized to merge or consolidate by the first section of this act, shall have the right to exercise any franchise, for public use, then if any stockholder of any corporation hereby authorized to be merged or consolidated with any other or others, not voting in favor of such agreement, shall dissent therefrom and shall refuse or neglect to convert his or her stock into the stock of such new or consolidated corporation, or to dispose thereof in the manner

and on the terms specified in such agreement, such dissenting stockholder or such new or consolidated corporation may, at any time within thirty days after the adoption and filing of the said agreement of consolidation by the stockholders as in this act provided, apply by petition to the court of common pleas of the county in which the chief office of the corporation whose stockholders shall so dissent or neglect, was or is located, or to a judge of said court in vacation (if no such court sits within said period), on reasonable notice to be prescribed by said court or judge to said new or consolidated corporation, or to such dissenting stockholder, as the case may be, for the appointment of three disinterested appraisers to appraise the full market value of his or her stock, without regard to any depreciation or appreciation thereof in consequence of the said merger or consolidation, and whose award (or that of a majority of them), when confirmed by the said court, shall be final and conclusive on all parties, and said new or consolidated corporation shall pay to such stockholder the value of his or her stock as aforesaid; and on receiving such payment, or on a tender of such value, or in case of any legal disability or absence from the state, on the payment of such value into said court, said stockholder shall transfer his or her said stock to the said new or consolidated corporation to be disposed of by the directors thereof, or to be retained for the benefit of the remaining stockholders thereof; and in case the value of said stock as aforesaid is not so paid or tendered within thirty days from the filing of said award and confirmation by said court, and notice thereof to be given in the manner aforesaid unto said stockholder or said new or consolidated corporation, the amount of the value of said stock, so found and confirmed, shall be a judgment against said corporation, and may be collected as other judgments in said court are by law recoverable.

239. Consolidated company may issue bonds and stocks and hold stocks of other corporations.

SEC. 6. In all cases of merger or consolidation of two or more corporations under and by virtue of the provisions of this act, the said new or consolidated corporation shall have power and authority to issue bonds or other obligations, negotiable or otherwise, and with or without coupons or interest certificates thereto attached, to an amount sufficient with its capital stock

to provide for all the payments it will be required to make or obligations it will be required to assume, in order to effect such merger or consolidation; to secure the payment of which bonds or obligations it shall be lawful to mortgage its corporate franchises, rights, privileges and property, real, personal and mixed; *provided*, such bonds shall not bear a greater rate of interest than six per centum per annum; and that it shall also be lawful for said new or consolidated corporation to purchase, acquire, hold and dispose of the stocks of other corporations of this state or elsewhere, and to exercise in respect thereto all the powers of stockholders thereof; and that it shall also be lawful for said new or consolidated corporation to issue capital stock, either common or preferred, or both, to such an amount as may be necessary, to the stockholders of such merging or consolidating corporations in exchange or payment for their original shares, in the manner and on the terms specified in said agreement of merger or consolidation; which agreement may also provide for the issue of preferred stock based on the property or stock of the merging or consolidating corporations conveyed to the new or consolidated corporation, as well as upon money capital paid in, and may fix the amount of such preferred stock.

240. Act not to apply to railroad, insurance, banking or canal companies.

SEC. 7. The provisions of this act shall not apply to any railroad company, insurance company, (except companies for the insurance or guaranty of the title to lands or any estates or interests in lands), banking company, savings bank or other corporation intended to derive profit from the loan and use of money, turnpike company or canal company.

SEC. 8. All acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

241. Taxes in arrear, receiver may be appointed.

[A Supplement to the amendatory act of March 20th, 1891, *supra* § 210, approved March 13, 1893. P. L., ch. 138.]

SEC. 1. After any corporation of this state has failed and neglected for the space of two consecutive years to pay the taxes imposed upon it by law, and the comptroller of this state shall have reported such corporation to the governor of this

state, as provided in said amendatory act, then it shall be lawful for the attorney general of this state to proceed against said corporation in the court of chancery of this state for the appointment of a receiver, or otherwise, and the said court in such proceeding shall ascertain the amount of the taxes remaining due and unpaid by such corporation to the state of New Jersey, and shall enter a final decree for the amount so ascertained, and thereupon a fieri facias or other process shall issue for the collection of the same as other debts are collected, and if no property which may be seized and sold on fieri facias shall be found within the said state of New Jersey, sufficient to pay such decree, the said court shall further order and decree that the said corporation, within ten days from and after the service of notice of such decree upon any officer of said corporation upon whom service of process may be lawfully made, or such notice as the court shall direct, shall assign and transfer to the trustee or receiver appointed by the court, any chose in action, or any patent or patents, or any assignment of, or license under any patented invention or inventions owned by, leased or licensed to or controlled in whole or in part by said corporation, to be sold by said receiver or trustee for the satisfaction of such decree, and no injunction theretofore issued nor any forfeiture of the charter of any such corporation shall be held to exempt such corporation from compliance with such order of the court; and if the said corporation shall neglect or refuse within ten days from and after the service of notice of such decree to assign and transfer the same to such receiver or trustee for sale as aforesaid, it shall be the duty of said court to appoint a trustee to make the assignment of the same, in the name and on behalf of such corporation, to the receiver or trustee appointed to make such sale, and the said receiver or trustee shall thereupon, after such notice and in such manner as required for the sale under fieri facias of personal property, sell the same to the highest bidder, and the said receiver or trustee, upon the payment of the purchase money, shall execute and deliver to such purchaser an assignment and transfer of all the patents and interests of the corporation so sold, which assignment or transfer shall vest in the purchaser a valid title to all the right, title and interest whatsoever of the said corporation

therein, and the proceeds of such sale shall be applied to the payment of such unpaid taxes, together with the costs of said proceedings.

242. Governor may correct mistakes in proclamation of corporations in arrear for taxes.

SEC. 2. Whenever it is established to the satisfaction of the governor that any corporation named in said proclamation has not neglected or refused to pay said tax within two consecutive years, or has been inadvertently reported to the governor by the comptroller as refusing or neglecting to pay the same as aforesaid, that the governor be and he is hereby authorized to correct such mistake, and to make the same known by filing his proclamation to that effect in the office of the secretary of state.

SEC. 3. This act shall take effect immediately.

243. Any corporation may hold the stock of any other corporation.

[Supplement of March 14, 1893, *P. L.*, ch. 171.]

SEC. 1. It shall and may be lawful for any corporation or corporations created under the provisions of the act to which this is a further supplement to purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of the capital stock of any other corporation or corporations created under the law of this or any other state, and to exercise while owners of such stock all the rights, powers and privileges, including the right to vote thereon, which natural persons, being the owners of such stock, might, could or would exercise.

244. Corporations may hold, pledge and dispose of securities created by other corporations.

SEC. 2. It shall and may (be) lawful for any corporation described in the preceding section of this act to purchase, hold, sell assign, transfer, mortgage, pledge, or otherwise dispose of any securities or evidences of debt created by (any) other corporation or corporations of this or any other state, in the same manner and to the same extent as natural persons, being the owners thereof, might, could or would do.

SEC. 3. All acts and parts of acts inconsistent with this act, to the extent of such inconsistency, be and the same are hereby repealed, and that this act shall take effect immediately.

245. Increase or decrease of number of directors.

[Supplement of March 21, 1893, P. L., ch. 254. Vid. sections 1, 116, 184.]

SEC. 1. Any company or association incorporated under any general law of this state or by special act of incorporation or otherwise shall have the power to increase or decrease the number of its directors by the assent in writing of stockholders representing two-thirds in value of the existing capital stock of said corporation, and a certificate signed by the president and secretary and under the corporate seal of the company, reciting that the assents of the said stockholders have been given, and also setting forth the number of directors as increased or decreased, shall be filed in the department of state, within ten days after the execution of said certificate, and a certified copy of said certificate by the secretary of state shall be taken and accepted as evidence of such increase or decrease of directors in any court of this state; *provided*, that in no case shall the number of directors in such company or association be decreased to less than three.

246. Subscriptions to stock may be paid in cash or property or both.

SEC. 2. Subscriptions to the capital stock of any corporation organized or to be organized under the act to which this is a supplement, or any supplement thereto, may be paid wholly or partly in cash, or wholly or partly in property of the full value thereof; and the stock so issued shall be declared and be taken to be full-paid stock, and not liable to any further call, neither shall the holder thereof be liable for any further payments under any provisions of this act or the act to which this is a supplement.

247. Incorporators may abandon corporate powers and dissolve.

SEC. 3. It shall be lawful for the incorporators, or a majority of them, of any corporation incorporated or that may hereafter be incorporated under the act to which this is a supplement, or any supplement thereto, to file in the department of state, a certificate stating that they have failed, and do not intend to perfect an organization of said corporation, and surrendering all the rights and franchises of said corporation, which certificate shall be sworn or affirmed to by the incorporators signing the same, and within ten days thereafter be filed in the department of

state, and upon the filing of said certificate, the corporate powers of said corporation shall thereupon cease and the corporation therein named shall be deemed to be dissolved.

248. Dissolution under 34th section incomplete until affidavit of publication filed.

[Vide sections 34, 113, *supra*.]

SEC. 4. The dissolution of a corporation as provided by the thirty-fourth section of the act to which this is a supplement, shall not be considered complete until an affidavit that the certificate of dissolution issued by the secretary of state has been duly published, as required by the act, shall have been filed in the department of state.

249. "General stock" and "common stock" are synonymous.

SEC. 5. Wherever in the act to which this is a supplement, or any supplement thereto, the terms "general stock" and "common stock" occur, they shall be considered as synonymous; that either may be used, and they shall be construed interchangeably, and as both meaning ordinary unpreferred stock.

250. Amended certificate of incorporation.

[Vide sections 180, 231, 11, 126, 146.]

SEC. 6. It shall be lawful for any corporation organized or that may be organized under any general law of this state, with the assent of a majority in interest of its stockholders, at a special meeting to be called for that purpose, to amend its original certificate of incorporation by a certificate which shall be duly signed by its president and attested by its secretary, under its corporate seal, and in all respects executed in the same manner as its original certificate of incorporation, which amended certificate shall be recorded in the office of the clerk of the county wherein the original certificate was recorded and filed in the department of state; and thereupon such amended certificate shall take the place of the original certificate of incorporation, and shall be deemed to have been recorded and filed on the date of the recording and filing of the original certificate; *provided*, that nothing herein contained shall permit the insertion of any matter not in conformity with the law under which such company was organized, and that nothing herein contained shall affect any suit or proceeding at the time of the filing of such amended certificate, pending by or against

the said corporation, or impairing any rights of action accrued by or against its stockholders, corporators or directors; *and provided further*, that the total authorized capital stock of any such corporation shall not be increased or decreased in the amended certificate herein provided for.

251. Fees upon filing certificates and other papers.

SEC. 12. On filing any certificate or other paper, relative to corporations, in the department of state, the following fees and taxes shall be paid to the secretary of state, for the use of the state: for certificate of organization, one-fifth of a dollar (twenty cents) per one thousand dollars for the total amount of capital authorized, but in no case less than twenty-five dollars; increase of capital stock, one-fifth of a dollar (twenty cents) per one thousand dollars of the total amount authorized, but in no case less than twenty dollars; consolidation and merger of companies, one-fifth of a dollar (twenty cents) per one thousand dollars of capital authorized, beyond the total authorized capital of the companies merged or consolidated; *provided*, that the minimum fee shall be twenty dollars; extension or renewal of corporate existence of any corporation, the same as required for the original certificate of organization by this act; dissolution of corporation; change of name; change of nature of business; increase or decrease of number of directors; amended or supplemental certificates of organization other than those authorizing increase of capital stock; decrease of capital stock; increase or decrease of par value or of number of shares, twenty dollars; for filing list of officers and directors, one dollar; and for all certificates not hereby provided for, five dollars.

SEC. 13. All acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

252. Company may repeal its classification of directors.

[Supplement of March 27, 1893, P. L., ch., 268.]

SEC. 1. When any corporation heretofore or hereafter created under the act to which this act is a supplement shall have heretofore or hereafter by the terms of its certificate of incorporation classified its directors in respect to the time for which they shall severally hold office pursuant to the provisions of the "Act concerning corporations" (Revision), approved April seventh, one thousand eight hundred and seventy-five, and the

supplements and amendments thereof in that behalf applicable then and in that event any such corporation shall have the power at a meeting of the stockholders of said company, called for that purpose under the provisions of this act by the vote of a majority in amount in interest of the total number of shares of the capital stock of said company then outstanding, however represented, whether by common or preferred stock or one or more classes, each share of stock in said company of whatever class, if classified, being entitled to one vote under the provisions of this act, to repeal any or all the provisions whereby said classification of directors in respect to the time for which they shall severally hold office has been or may hereafter be effected, and to repeal any and all provisions, if any, whereby the right to choose the directors of any class may have been heretofore or may hereafter be conferred upon any class or classes of stockholders to the exclusion of the others, and to thereupon determine and limit the term of office of any board of directors of said company then in office, so as to have the said term of office of said entire board then and there expire by limitation at such meeting; on the passage of such resolution, and thereupon and after the passage of such resolution so repealing said provisions as to classification of directors or voting rights or both as aforesaid, said stockholders shall forthwith proceed to elect a new board of directors to hold office for one year or until the next annual meeting of said stockholders, if the time fixed for the next annual meeting is less than one year from the date of such meeting at which said repeal of said provisions is made, and until their successors are chosen and qualified in their stead, and thereafter the directors of said corporations shall be chosen annually by stockholders at such time and place as shall be provided by the by-laws of the company, and shall hold their offices for one year and until others are chosen and qualified in their stead.

253. Stockholders may call a meeting and repeal classification of directors.

SEC 2. The persons holding in their own names on the books of the company a majority in amount in interest of the total capital stock, whether made up of one or several classes as aforesaid, then outstanding of any such corporation, and desiring to

avail themselves of the privileges of this act, may call a meeting of all the stockholders of said company for the purpose of considering the question of the repeal of any such provisions as to classification of directors, or voting power or both as aforesaid, and of electing a new board of directors in case of such repeal under the provisions of this act, by signing a notice of such meeting specifying the time and place of holding such meeting and in general terms the object thereof and publishing the same at least ten days prior to the date fixed therein for said meeting, in a newspaper circulating in the county wherein the business of said company is conducted or where their principal place of business is located.

254. Such meeting will be legal and by-laws may be adopted.

SEC. 3. Any such meeting so called shall be a legal meeting of the stockholders of the company, and shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied, or cannot be had, at some other place in the city, village or town where such office or place is, or was located; at such meeting, the stockholders attending shall constitute a quorum, and each share of stock of any kind or classes, if classified shall be entitled to one vote on all questions properly coming before said meeting, any provision to the contrary in the certificate or by-laws of said company notwithstanding; the stockholders attending may elect a chairman, secretary and inspectors of the vote on the consideration of said question of repealing any such provision as to the classification of directors or voting power or both as aforesaid, and of any election of new directors that may be held in case of such repeal, and may elect a new board of directors if such repeal is passed, and may adopt by-laws providing for future annual meeting and election of directors of the company, and may transact any other business which may be transacted at an annual meeting of the members of the corporation, and it shall be the duty of the secretary of the company, on receipt of the minutes of said meeting from the secretary thereof, to file the same in the office of the company and record the same in the book of minutes of the company.

255. In the absence of stock books, shareholders may be determined by affidavit.

SEC. 4 In the absence at such meeting, of the books of the corporation showing who are stockholders thereof, each person voting shall present his sworn statement setting forth that he is a stockholder of the corporation and the number of shares of stock owned by him and standing in his name on the books of the corporation, and if known to him, the total number of shares of stock of the corporation outstanding, including all classes if classified; on filing such statement he may vote as a stockholder of said corporation on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation, each share of whatever class entitling him to one vote; *always provided* that in case of falsity or mistake in such statement and question arising as the validity of the passage or rejection of any such resolution by the votes then cast, any shares not owned by any party voting as aforesaid shall be deducted from the total vote on either side then cast or represented in thereafter determining the validity of the passage or rejection of any such resolution by the actual vote cast at such meeting by those actually entitled to cast votes thereat as above provided.

256. Directors elected by such meeting shall be entitled to possession and control.

SEC. 5. In case of a resolution shall be duly passed at any such meeting pursuant to the provisions hereof repealing any such provisions as to the classification of directors or voting power or both, that then and from henceforth the term of office of all directors of said company then in office shall cease and determine, and a new election for directors of said company shall be held as aforesaid, and the new directors then elected shall be the lawful board of directors of said company, and shall be forthwith entitled to the possession and control of its property and franchise.

257. Certificate of proceeding of such meetings to be filed.

SEC. 6. In case of a repeal of any such provisions, as to the classification of directors or voting power or both, it shall and may be lawful for the chairman and secretary elected by the stockholders at any such meeting to make and sign a certificate under their hands, sworn to by them as true to the best of their

knowledge, information and belief, and acknowledged as a deed to be recorded setting forth and specifying in general terms the proceedings taken for the purpose of holding such meeting, including the original or a copy of the notice of meeting so signed and the affidavit of the printer as to the publication of said notice as aforesaid, and the proceedings had or action taken at said meeting, and such certificate so made as aforesaid may be filed in the office of the secretary of state, upon the payment to the secretary of the state for the use of the state of the sum of twenty (20) dollars, and a copy of any such certificate so made and filed as aforesaid, duly certified by the secretary of state under his official seal, shall be evidence in all courts and places of the facts therein recited, and of the right to issue the notice of such meeting and of the due issue and publication of such notice and the holding and action of such meeting in the premises, and generally that the foregoing provisions of this act have been fully observed and complied with.

SEC. 7. This act shall take effect immediately.

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